

AN INVESTIGATION OF FAMILIAL STATUS AND NATIONAL ORIGIN DISCRIMINATION IN RENTAL HOUSING

IN MARIN, SONOMA, & SOLANO COUNTIES



**FAIR HOUSING ADVOCATES
OF NORTHERN CALIFORNIA**

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FOREWORD

Housing is more than merely a roof over a person's head. The ability to freely seek out and choose one's housing, in any community, without facing actual or perceived barriers, is crucial in allowing a person to achieve independence, economic self-sufficiency, social acceptance, and professional and educational opportunities. Since 1923, the U.S. Supreme Court has recognized the right to "establish a home" as one of the fundamental liberties protected by the Due Process Clause of the U.S. Constitution.ⁱ In 1968, Congress passed the Fair Housing Act to prohibit discrimination in housing on the basis of race, color, religion, sex, and national origin, amended in 1988 to also include familial status and disability. Additionally, in California the Fair Employment and Housing Act and the Unruh Civil Rights Act prohibit landlords from discriminating in housing. However, despite legislative progress, housing discrimination is still a reality for many individuals, particularly those who are Latinx and/or those with children.

While national origin protections apply to anyone who experiences discrimination on the basis of their ethnic background, nationality, and/or primary language, discrimination against Latinx people is the most common form of national origin discrimination. Research shows that Latinx renters are more likely to be excluded from housing opportunities than white non-Latinx renters. According to a 2017 Harvard University study, 31% of Latinx individuals report being discriminated against when looking for housing.ⁱⁱ A 2018 Princeton University report found that Latinx are 28% less likely to have a landlord return their calls and 49% less likely to receive an offer on an apartment or house.ⁱⁱⁱ Similarly, a 2012 study by HUD and the Urban Institute found that Latinx are told about 12.5% fewer available properties and shown 7.5% fewer housing units during site visits than white non-Latinx renters.^{iv} In 2019-2022, 10.7% of the fair housing complaints received by both HUD and California's Civil Rights Department from Marin, Sonoma, and Solano County residents (the three counties served by FHANC) alleged discrimination on the basis of national origin.

Discrimination against Latinx renters is compounded when they have children. Familial status discrimination occurs when families with children (households with one minor child or more) are treated less favorably than adult-only households. While familial status discrimination has been illegal under the Fair Housing Act for more than forty (40) years, parents, legal guardians, pregnant people and people in the process of obtaining legal custody of a child (such as through adoption, divorce, or foster care) continue to face barriers to housing access. In 2021, 8.4% of fair housing complaints filed with HUD alleged housing discrimination on the basis of familial status.

The purpose of this audit was to assess the extent to which housing providers are complying with their obligations under state and federal fair housing laws not to discriminate on the basis of national origin and/or familial status. To that end, FHANC conducted a large-scale investigation of 60 rental properties in Marin, Sonoma, and Solano counties to uncover how Latinx parents are treated in the rental market. The investigation, which is detailed in this report, uncovered significant evidence of widespread discrimination.

This audit was carried out from January through April 2023 by FHANC's Investigations Coordinators, Ursula Lindsey, Maria Callahan, and Quinn McFeeters, under the supervision of Supervising Attorney, Julia Howard-Gibbon, and Executive Director, Caroline Peattie. Ms. Howard-Gibbon analyzed the investigations and prepared this audit report, under the supervision of Ms. Peattie. Those responsible for this report hope the results and recommendations contained herein will heighten awareness and encourage a cooperative effort by all segments of the communities in Marin, Sonoma, and Solano counties to eliminate discrimination on the basis of familial status and national origin and to educate housing providers on their obligation to comply with fair housing laws.^v

EXECUTIVE SUMMARY

This report details the results and subsequent recommendations following FHANC's investigation of discrimination against Latinx parents in Marin, Sonoma, and Solano counties ("the tri-county area"). While federal and state fair housing laws have prohibited housing discrimination on the basis of national origin and familial status for decades, research and the results of this audit show that Latinx households with minor children continue to experience discrimination as a barrier to housing choice.

This audit investigated sixty (60) housing providers (landlords) operating rental properties in the tri-county area; with twenty (20) properties investigated in each county. Each "test" or investigation of a particular property consisted of matched paired phone or email^{vi} tests, comparing the experiences of Latinx and white non-Latinx testers posing as mothers with minor children seeking rental housing.

FHANC analyzed the tests to determine whether Latina women with children were treated less favorably than white non-Latina women with children and/or whether housing providers had policies or made statements that were discriminatory on the basis of familial status. FHANC found that 58.2% of the housing providers investigated discriminated on the basis of familial status (39%) and/or national origin (30.4%) and 14.5% discriminated on the basis of both.

Many of the tests revealing discrimination showed that housing providers outright refused to rent to families with children or had policies that disproportionately affected families such as overly restrictive occupancy rules. Additionally, some housing providers that discouraged the Latina tester from renting because she had children made no such discouraging comments to the white non-Latinx tester and/or were willing to make exceptions to occupancy rules for the white tester, revealing evidence of discrimination based on both familial status and national origin.

Housing providers in Marin County were revealed to be the most discriminatory, with 66.7% of tests revealing at least some evidence of discrimination. When isolating the two protected classes, tests conducted in Marin County revealed the most evidence of familial status discrimination (52.6%), 70% of which were based on clear evidence, and tests conducted in Sonoma County revealed the most evidence of national origin discrimination (35%), 20% of which were based on clear evidence. Housing providers in Solano County were the least discriminatory; with 25% of tests revealing evidence of familial status discrimination and 23.5% revealing evidence of national origin discrimination.

Familial status discrimination was detected at a higher rate in email tests than phone tests (41.4% versus 36.7%) and national origin discrimination was detected at a significantly higher rate in phone tests than email tests (40.7% versus 20.7%). The fact that email tests revealed such a high rate of familial status discrimination suggests that discrimination against families with children is so pervasive that housing providers are willing to make discriminatory statements, even in writing. Small and medium sized housing providers were significantly more discriminatory than large providers, particularly as related to familial status discrimination where all discrimination detected occurred at properties with fewer than fifty (50) units. These findings indicate that many landlords, particularly small landlords, are unaware of their obligations under fair housing law and need additional training.

Based on these results, FHANC has proposed a number of recommendations for the housing industry and community at large to help increase housing opportunity for Latinx families with children and address the systemic discrimination these families currently face.

FAMILIAL STATUS AND NATIONAL ORIGIN DISCRIMINATION IN RENTAL HOUSING

AUDIT REPORT

I. INTRODUCTION

This report presents results of an audit investigation of familial status and national origin discrimination in the rental market against Latinx parents in Marin, Sonoma, and Solano counties in California. The audit was conducted by FHANC between January and March 2023.

A. FAIR HOUSING ADVOCATES OF NORTHERN CALIFORNIA (FHANC)

FHANC is a private nonprofit organization dedicated to assisting individuals experiencing housing discrimination and educating the community, including tenants, housing providers, and government employees, as to their rights and responsibilities under federal and state fair housing laws. FHANC's mission is to ensure equal housing opportunity and to educate the community on the value of diversity in housing.

FHANC provides free comprehensive fair housing counseling services to individuals alleging housing discrimination in Marin County, Sonoma County (except the incorporated city of Petaluma), and Solano County. FHANC also provides other services, such as foreclosure prevention counseling and trainings to housing providers, in other neighboring counties.

In addition to counseling and education services, FHANC recruits, trains, and employs fair housing testers in order to investigate claims of housing discrimination and to assist in conducting systemic investigations, such as the one described in this report.

B. LEGAL BACKGROUND

1. Federal and State Fair Housing Laws

Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act (FHA), prohibits discrimination in housing on the basis of race, national origin, color, religion, sex/gender, disability, or familial status. Under the Act, it is illegal to engage in the following activities because of a person's membership in a protected class:

- a. Refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling;
- b. Discriminate in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities;
- c. Make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates discrimination, preference, or limitation;

- d. Represent that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available;
- e. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or race; and/or
- f. Refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

The two primary state fair housing laws in California are the Fair Employment and Housing Act (FEHA) and the Unruh Civil Rights Act. These laws incorporate the same protected classes of persons as the Fair Housing Act, and also prohibit discrimination based on marital status, sexual orientation, source of income, ancestry, immigration status, citizenship, primary language and arbitrary factors such as age or occupation.

2. Discrimination Based on Familial Status

Both federal and state fair housing laws prohibit housing discrimination based on familial status. (See 42 U.S.C. §3604(a); Cal. Gov't Code §§ 12955(a)). Familial status protections apply to families with one or more minor child in the home. These protections extend not only to parents of children but also legal guardians (such as grandparents or other family members), persons who are pregnant, persons who are in the process of obtaining legal custody of a minor child (such as through adoption, divorce or foster care), and persons who have written permission of the parent or legal guardian to house the child. (See 42 U.S.C. § 3602(k)).

There are two theories of liability under fair housing law: disparate treatment and disparate impact. Policies that specifically apply to children or families with children are considered facially discriminatory under the theory of disparate treatment because they explicitly target and exclude a group that is protected by fair housing laws. However, even policies that are neutral on their face and neutrally applied (in that they do not specifically apply only to children), may also be unlawful if they disproportionately impact families with children compared to those without children. Policies with a "discriminatory effect" or "disparate impact" are considered discriminatory because they unreasonably limit housing choices for members of protected classes, even if the housing provider has no intent to discriminate.

Different Terms and Conditions

It is unlawful for a housing provider to treat families with children less favorably than adult-only households, even if the housing provider's policies are not motivated by animus. (42 U.S.C. § 3604(b) (FHA prohibits discrimination in the "terms, conditions, and privileges of a rental dwelling because of familial status"). Guidance from the U.S. Department of Housing and Urban Development (HUD) makes clear that housing providers are to make all of their units available to families with children, regardless of whether the provider believes the unit is suitable or safe for children. A housing provider cannot refuse to rent to an applicant because their household includes a child and tenants cannot be evicted on the basis of having a baby or bringing a child into the unit.

Housing providers cannot impose different terms or conditions, such as higher security deposits or rental charges, on tenants with children or require them to sign a waiver of liability that the provider does not require of other tenants. (See 42 U.S.C. § 3604(b); see also, HUD, 2 Legal Opinion: GME-0010, "Fair Housing Act Enforcement: Safety Issues as Defenses to Familial Status Discrimination" (Aug 6, 1992)). Additionally, a landlord may not evict a family based on complaints of typical child behavior, such as running, playing, or making noise during non-quiet hours. (See e.g., *U.S. v. M. Westland Co.*, CV 93-4141 (court found a rule prohibiting all children from using billiard and shuffleboard facilities violated the Fair Housing Act); see also, *Fair Housing Congress v. Weber*, 993 F. Supp. 1286 (C.D. Cal. 1997) (court found a rule prohibiting children from playing and running to be discriminatory)).

Similarly, policies or rules that prohibit minor children from playing outside of their respective units or from using common areas have been found to be discriminatory – even if they are designed to protect children from safety hazards – because they intentionally treat families with children differently than families without children. (See *Vargas v. Monitor Management Co.*, No. B186087, 2006 WL 2615315 (Cal.App.2d Dist. Sept. 13, 2006)); see also, *HUD v. Edelstein*, HUDALJ 05-90-0821-1, 1991 WL 442784 (HUD Dec. 9, 1991)). It is up to the tenant to decide what is safe for her own children, not the landlord. (See *HUD v. Edelstein*, 1991 WL 442784, at *5 (HUD 1991) ("As a general rule, safety judgments are for informed parents to make, not landlords"); see also *HUD v. Paradise Gardens*, HUDALJ 04-90-0321-1, 1992 WL 406531, at (HUDALJ Oct. 15, 1992) (a landlord's various pool restrictions for children were found to violate the Fair Housing Act, despite the landlord's contention that the rules were based on child safety concerns). In California, a landlord's concern for the safety of children is not an affirmative defense to liability for familial status discrimination. (See *DFEH v. Jevremov*, No. 97-02, FEHC Precedential Decs. 1997, CEB 1, 1997 WL 253179 Cal. FEHC Feb. 5, 1997).

Under federal law, a housing provider may only implement a rule that applies exclusively to children or families with children if there is a compelling business justification for the rule and the provider can show that the rule is the least restrictive means of achieving that justification. (See *Fair Housing Council v. Ayres*, 855 F.Supp. 315, 318-19 (C.D.Cal. 1994). In *U.S. v. M. Westland Co.*, the court found that while safety may be a compelling business justification, a rule requiring children to be supervised at all times was not the least restrictive means of achieving that justification because the rule applied to all children under 18, including teenagers and older children who could safely be left unsupervised. (*U.S. v. M. Westland Co.*, CV 93-4141). In *Fair Housing Congress v. Weber*, the court found that a rule prohibiting children from playing in common areas in order to prevent property damage and the disturbance of other tenants was not the least restrictive means of achieving those objectives because the rule prohibited all play, even nondisruptive play. (*Fair Housing Congress v. Weber*, 993 F. Supp. 1286 (C.D. Cal. 1997)). Additionally, a rule with a compelling business justification may still be considered discriminatory if the alleged justification for the rule is determined to be pretextual. (See *Bischoff v. Brittain* (E.D. Cal., 2014) (evidence before the court raised serious questions as to whether the landlord's alleged concern for safety of children or comfort of tenants was pretextual)).

Steering

Additionally, a housing provider may not steer families with children away from certain neighborhoods or areas of a housing complex or segregate families to certain floors or buildings in a complex, regardless of the landlord's motive. (See *HUD v. Edelstein*, Fair Housing-Fair Lending ¶ 25,018, p. 25,236 and 25,239 (1991) ("A landlord cannot justify steering families with children away from housing by groundlessly claiming that the housing would be unsafe for resident children"). For example, families with children cannot be excluded from units on the upper floors of a high-rise building just because the housing provider thinks it would present a special health or safety risk to children. Similarly, a landlord cannot restrict families with children to ground floor units in order to reduce noise disturbances for other tenants.

Discriminatory Statements

The Fair Housing Act prohibits statements or advertisements that indicate a preference, limitation, or discrimination based on familial status, or an intention to make any such preference, limitation, or discrimination. (42 U.S.C. § 3604(c)). This applies to all written and oral statements made by someone engaged in the rental of a unit. (24 C.F.R. § 100.75(b)). For example, a rental ad that uses words such as "adults" or "singles" or photographs to convey the message that units are not available to families with children may be unlawful. Additionally, statements discouraging a family with children from renting a dwelling by exaggerating drawbacks of the unit or complex are also considered discriminatory. (24 C.F.R. § 100.70(c) (2); see also *U.S. v. Grishman*, 818 F. Supp. 21 (D.Me.1993) (landlord's oral statement to rental agent that property was "less suitable" for families with children is a statement indicating a preference based on familial status in violation of § 804(c)). No discriminatory intent is required – the test is whether the ordinary listener would understand that a preference is being communicated. (*Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.); see also *United States v. Hunter*, 459 F.2d 205, 215 (4th Cir.)).

Occupancy Limits

While landlords may limit a unit's occupancy to a maximum number of people, in order to comply with fair housing laws, the limit must be reasonable. An overly restrictive occupancy limit – even if applied neutrally to households with children and without children – may be considered discriminatory, regardless of whether the landlord has a discriminatory motive for the policy, because it disproportionately impacts families with children. (See e.g., *Fair Hous. Ctr. of Washington v. Breier-Scheetz Properties, LLC*, 743 F. App'x 116 (9th Cir. 2018)) (occupancy standard that limits studio apartments to only one occupant found to be overly restrictive under the Fair Housing Act because it has a discriminatory effect on families with children). Whether a given policy is reasonable depends on a variety of factors, including the number of bedrooms, the size of the unit, other physical limitations of the housing, and state and local laws or codes.

In California, the Civil Rights Department (CRD), which enforces state fair housing laws, generally uses a "two-plus-one" formula to determine whether an occupancy policy is discriminatory. Under this formula, a policy is considered to be overly restrictive if it does not allow at least two people per bedroom plus one additional person for the household. For example, a landlord must allow three people to occupy a one-bedroom unit, five people to occupy a two-bedroom unit, and so on.

However, even if a landlord complies with the “two-plus-one” formula, the occupancy policy may still be considered overly restrictive if it is not reasonable, considering the actual size of the unit, not just the number of bedrooms. For example, Section 503.2 of California’s Uniform Housing Code requires that an efficiency unit (i.e., a studio) have a living space of at least 220 square feet in area plus 100 square feet for each occupant in excess of two. That means that a studio apartment with a living area of more than 320 square feet, but less than 420 square feet, may have up to three occupants. Since the Code has contemplated what is a safe number of people for a unit of that size, a landlord that imposes a more restrictive policy for such a unit likely violates California fair housing law.

3. National Origin Discrimination

Federal and state fair housing laws also prohibit housing discrimination based on national origin, or ethnicity. (See 42 U.S.C. §3604(a); Cal. Gov’t Code §§ 12955(a)). Refusing to rent to Latinx persons or treating Latinx persons less favorably constitutes national origin discrimination. Under California Law, it is also unlawful to discriminate based on a person’s immigration status and/or primary language. (Cal. Gov’t Code §§ 12955).

Examples of discrimination based on national origin include refusing to rent a unit or providing false information about availability based on nationality or ethnic background, requesting social security numbers only of tenants from certain national origins, requiring U.S.-based forms of identification, inquiring about immigration status or requiring a green card, steering persons with certain ethnic backgrounds to neighborhoods or complexes where they “might fit better,” making repairs only for tenants from certain ethnic backgrounds, enforcing rules and regulations for some tenants and not for others, and/or making discriminatory statements or harassing tenants based on their national origin.

Immigration Status

California law prohibits a housing provider from asking a tenant about their immigration status. The law prohibits making “any inquiry regarding or based on the immigration or citizenship” of a tenant or prospective tenant, and it also prohibits a housing provider from requiring that any tenant or prospective tenant “make any statement, representation, or certification concerning his or her immigration or citizenship status.” (Cal. Civ. Code § 1940.3). Housing providers may ask for verification of identification, and they may ask for identity documents and credit checks to ensure ability to pay rent. However, it is illegal for a housing provider to discriminate based on a person’s ancestry, ethnicity, birthplace, culture, or language. Requiring a tenant to possess a U.S. ID or passport is therefore a discriminatory and unlawful policy. A housing provider also cannot threaten to reveal information relating to the immigration or citizenship status of a tenant, or someone associated with a tenant, for the purpose of influencing a tenant to vacate a dwelling. (Cal. Civ. Code § 1940.2).

Discriminatory Statements

The Fair Housing Act prohibits statements or advertisements that indicate a preference, a limitation, or discrimination based on national origin, or an intention to make any such preference, limitation, or discrimination. (42 U.S.C. § 3604(c)). This applies to all written and oral statements made by someone engaged in the rental of a unit. (24 C.F.R. § 100.75(b)). A housing provider does not need to explicitly state an exclusionary policy or limitation in order to be liable under the Fair Housing Act – a statement or image that suggests a preference for certain ethnicities is sufficient. For example, one subtle form

of discriminatory advertising could be the use of human models of only one race or ethnicity in promotional materials, such as a building's website or rental listings. (See *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.) (the use of only white models in a rental advertisement was found to violate the Fair Housing Act)). No discriminatory intent is required – the test is whether the ordinary listener or reader would understand that a preference for renters of a particular ethnicity is being communicated. (See *United States v. Hunter*, 459 F.2d 205, 215 (4th Cir.)).

Steering

Additionally, a housing provider may not steer families away from certain neighborhoods or segregate families to certain areas of a complex based on their national origin. For example, telling a Latinx family they may feel more comfortable in a neighborhood with a higher concentration of Latinx residents violates the Fair Housing Act.

C. AUDIT BACKGROUND

For more than 20 years, FHANC has conducted multiple telephone, in-person, and email audits in several Bay Area counties designed to measure the extent of discrimination in housing against members of protected classes, particularly ethnic and racial minorities. Historically, the results of these audits suggest that unlawful discrimination based on familial status and/or national origin continues to be pervasive.

1. Previous National Origin and/or Familial Status Investigations

In 2005, 2013, 2017, and 2020 FHANC conducted national origin discrimination audits in Marin, Sonoma, and/or Solano counties. While results of earlier testing audits uncovered greater evidence of national origin discrimination, all FHANC's investigations, including this one, have revealed significant evidence discrimination against Latinx renters. In 2020, FHANC conducted a national origin and source of income discrimination audit in Marin, Sonoma, and Solano counties, in which Latinx testers were treated less favorably than white non-Latinx testers more than 25% of the time. In 2013, FHANC conducted a Latinx Voice Identification audit in Solano County, revealing that Latinx testers received less favorable treatment in the rental housing market 50% of the time. In 2005, FHANC found that Latinx testers encountered less favorable treatment than white testers 55% of the time in Marin County and 80% of the time in Sonoma County.

In 2017, FHANC conducted a national origin and familial status discrimination audit in Marin and Sonoma counties, indicating significant discrimination in both counties, with 42% of tests conducted in Marin County and 57% of tests conducted in Sonoma County indicating less favorable treatment toward Latinx families with children.

II. AUDIT GOALS AND METHODOLOGY

A. WHAT IS A FAIR HOUSING AUDIT?

A fair housing audit is a way to assess compliance or non-compliance with federal and state fair housing laws. It is a controlled measurement of the difference in quality, quantity, and content of information and services afforded to home seekers (testers) by housing providers. An audit differs from complaint-based testing in that it gives a broad overview of housing provider behavior in a given market during a certain time period. Fair housing organizations routinely conduct audits as an educational and enforcement tool.

B. DEFINITIONS

1. **Testing** – an investigative tool used to gather evidence of potential housing discrimination that involves one or more testers and is generally covert in nature.
2. **Test** – an investigation of a particular property, involving one or more testers/ test parts.
3. **Investigation** (multiple meanings) – one test targeting a single housing provider (with one or more test parts); a series of tests targeting a single housing provider; OR an audit of multiple housing providers in a target geographic region.
4. **Test Part** – a contact or series of contacts via phone, email, and/or in person by a single tester with a target housing provider (e.g., a matched paired test consists of two test parts).
5. **Complaint Test** – a test conducted to corroborate (or refute) existing evidence of discriminatory practices.
6. **Audit** – a controlled and systematic way to assess compliance or non-compliance with fair housing laws by housing providers in a particular housing market by using testers to determine how people with protected characteristics are treated in the rental or homebuying process.
7. **Single-Part Test** – a test that involves only one tester; usually used to determine whether a discriminatory policy exists.
8. **Matched Paired Test** – a two-part test that involves two similarly matched testers – one control and one protected – posing as comparably qualified home seekers, on personal, financial, and other characteristics; used to detect differences in service, information, or treatment.
9. **Control Tester** – a tester whose profile does not include the protected characteristic(s) tested.
10. **Protected Tester** – a tester whose profile includes one or more protected characteristic tested.
11. **Tester Profile** – the characteristics and backstory assigned to a tester prior to conducting a test, which may include an alias, financial characteristics (such as income and credit information), an address, employment, a spouse, and/or one or more protected characteristic.

C. AUDIT GOALS

1. **To identify instances of differential treatment/discrimination at available rental sites**, including houses and larger multi-family complexes, thus indicating the extent to which Latinx renters with children face difficulty in securing rental housing in Marin, Sonoma, and Solano counties due to familial status and/or national origin discrimination.
2. **To conduct additional tests** where results indicate potential discrimination, and to conduct additional investigations at sites where results suggest that further investigation could yield stronger evidence of discrimination.
3. **To bring minor violations to the attention of housing providers** to increase awareness of the potential consequences of engaging in discriminatory practices and prevent future transgressions.
4. **To file enforcement actions** (lawsuits or administrative complaints) in cases with strong evidence of discrimination in order to change discriminatory policies and practices.
5. **To increase housing providers' awareness** of the difficulties Latinx families with children experience in securing rental housing.
6. **To make Latinx renters and families with children aware of discriminatory practices** they may experience and the services provided by FHANC to assist people in securing housing rights.
7. **To offer training to housing providers** on fair housing laws and practices to forestall future discrimination.

D. GEOGRAPHIC SCOPE OF AUDIT

FHANC tested a total of 60 properties: 20 in Marin County, 20 in Sonoma County, and 20 in Solano County. FHANC tested properties in areas representing a cross section of more densely populated cities (Novato, San Rafael, Santa Rosa, Petaluma, Vallejo, Fairfield, and Vacaville) as well as more suburban and rural areas with lower population densities. The percentage of tests conducted in each area roughly corresponds to the population and rental housing stock for that area.

a) Marin County

In Marin County, tests were conducted at properties in Kentfield, Mill Valley, Novato, San Anselmo, San Rafael, and Sausalito. The chart below shows the percentage of tests conducted in each area.^{vii}

Marin County	% of Tests in County	# of Properties in Area
San Rafael	30%	6
Novato	30%	6
Southern Marin ^{viii}	20%	4
Central Marin ^{ix}	20%	4
Totals	100%	20

b) Sonoma County

In Sonoma County, tests were conducted at properties located in Cloverdale, Cotati, Healdsburg, Larkfield-Wikiup, Penngrove, Petaluma, Santa Rosa, Sebastopol, and Sonoma. The chart below shows the percentage of tests conducted in each area.

Sonoma County	% of Tests in County	# of Properties in Area
Santa Rosa	45%	9
Petaluma	20%	4
West Sonoma County ^x	5%	1
Northern Sonoma County ^{xi}	15%	3
Southern Sonoma County ^{xii}	15%	3
Totals	100%	20

c) Solano County

In Solano County, tests were conducted at properties in Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo. The chart below shows the percentage of tests conducted in each area.

Solano County	% of Tests in County	# of Properties in Area
Vallejo	25%	5
Fairfield	30%	6
Vacaville	15%	3
Northern Solano County ^{xiii}	5%	1
Southern Solano County ^{xiv}	25%	5
Totals	100%	20

E. AUDIT METHODOLOGY

1. Types of Investigations

Investigations coordinators conducted a total of 60 phone or email investigations within the target geographic area, totaling 122 test parts. Most investigations were matched paired tests (two-part tests); however, some investigations required a third part in order to more accurately assess whether discrimination occurred.

For each phone investigation, the investigations coordinator selected two testers – a “protected tester” and a “control tester” – to carry out each test part. A Latina tester was selected as the protected tester and a white (non-Latinx) female tester was selected as the control tester. Each tester was assigned a profile that included at least one child in the household as well as other relevant financial and personal information. Each tester was instructed to call a target property posing as a prospective renter searching for housing for her and her child/children.

For each email investigation, the investigations coordinator created three separate profiles – a “Latinx profile,” a “white profile” and a “vacancy-check profile” – with corresponding email addresses for each profile. Each protected profile had a Latinx-sounding name and at least one child in the household, each control profile had a white-sounding name and at least one child in the household, and each vacancy-check profile had a white-sounding name but no children. The investigations coordinator emailed each target property from the protected profile and control profile, posing as prospective renters searching for housing for themselves and their children. The vacancy-check profile was only deployed if neither the control nor the protected profile received a response (or both received only an automated response) or if both received responses suggesting that the unit was no longer available.

2. Sampling Techniques

Investigations coordinators selected one- and two-bedroom properties to test within the target geographic areas from advertisements posted on online sources (including but not limited to Craigslist.com, Trulia.com, Hotpads.com, Apartments.com, and Zillow.com) and sign postings. Shared homes were not tested, nor were vacation homes or short-term rentals.

3. Recruitment, Screening, and Training of Testers

a. Tester Training

All testers received fair housing tester training and training in investigative procedures.

b. Tester Selection

Only testers with voices clearly identifiable as Latinx were selected as protected testers and only testers with voices clearly identifiable as white (non-Latinx) were selected as control testers.

4. Phone Investigation Procedures

a. Property Selection

For each phone investigation, the investigations coordinator identified a rental property in the target geographic area, pursuant to the sampling techniques set forth above.

b. Tester Selection

For each investigation, the investigations coordinator assigned two testers – one Latinx tester as the protected (class) tester and one white tester as the control tester. Each tester was matched to their counterpart as closely as possible in age, gender, and temperament. None of the testers selected had obvious disabilities, spouses, rental subsidies, or other protected characteristics, so as not to introduce additional protected variables.

c. Profiles

For each test, the investigations coordinator created and assigned each tester a profile with an alias, financial information, family information, and other personal background information. Protected testers were assigned Latinx-sounding names as aliases and control testers were assigned white-sounding names as aliases.^{xv} The matched profiles were designed to avoid any indication of difference in protected class characteristics other than national origin. All of the profiles were single mothers, so all testers were female, and the profiles included at least one child under 18 and no spouse.

The number of children assigned to each profile was dependent on the number of bedrooms in the target unit. According to CRD's "two-plus-one" guideline, an occupancy limit is overly restrictive unless it allows for at least two people per bedroom plus one additional person for the household. The total household size for each profile was set at the allowable number of occupants for the unit pursuant to the "two-plus-one" guideline. For example, if the target property was a one-bedroom unit, the tester's household consisted of the tester and two children; if it was a two-bedroom unit, the household consisted of the tester and four children. FHANC deliberately chose family sizes at the allowable occupancy limits so that if the housing provider stated that the family was too large for the unit such a statement could be clearly classified as discriminatory.

Each matched profile included the same number of children as the other matched profile. Additionally, the ages of the children in each matched profile were the same or similar to the ages of the children in the other matched profile. For households with two children, one child was usually younger (less than 5 years old) and the other was usually older (greater than 12 years old). For example, if the control tester's profile had a 3-year-old and a 13-year-old the control tester's profile might have a 2-year-old and a 14-year-old. This was done in an attempt capture any potential discrimination based on the age of the child since some housing providers might allow a family with a toddler but not a family with teenager or vice versa.

Matched profiles included roughly equivalent rental credentials, including similar household incomes and similar rental histories. However, the protected profiles had slightly higher incomes and slightly more stable rental histories than their control counterparts. Both testers were instructed to express identical housing needs, such as the number of bedrooms and price range.

Each profile included an email address for testers to provide to the housing provider if requested. The email accounts were created and managed by the investigations coordinators. The email address assigned to each tester corresponded with the tester's alias.

d. Test Assignments

For each investigation, the investigations coordinator created a test assignment for each tester based on the information collected from the rental listing. The test assignments included information about the listing (i.e., the phone number of the agent and the address of the property), instructions for conducting the test, the tester's profile, and a copy of the rental listing.

Prior to starting the test, the investigations coordinator briefed each tester via phone and/or email and sent each tester their test assignment. Testers were instructed to review their test assignments, acknowledge receipt and understanding of the test instructions, and discuss any questions or concerns about their assignments with the investigations coordinator prior to starting the test.

e. Tests

For each phone investigation, each tester began the test by calling the listed rental agent. The protected tester was instructed to start the test as soon as possible after reviewing the assignment (within reasonable hours). The control tester was generally instructed to start the test shortly after the protected tester completed the test (ideally within 24 hours, if possible).

If the tester reached an answering machine, the tester was instructed to leave a message stating their name (alias), phone number, and their interest in the listed property. Testers were instructed not to include any other information about their profile in the message other than their name and phone number.

If the tester reached a person associated with the listed property (e.g., the owner or agent), the tester introduced themselves and stated that they were calling about the advertised unit. Testers were instructed to seek information from the rental agent about the rental unit and the rental process. Testers were instructed to disclose their familial status early in the test by stating that they were looking for a place to rent for themselves and their child/children, specifying the number of children based on their profile.

Phone testers were instructed to express interest in the property; however, they were told not to view the property, submit a completed rental application, or agree to a background check. If the agent asked to schedule a viewing during the test, the tester was instructed to give a reason consistent with their profile for why they could not schedule a viewing at that time.

f. Debriefs

After each test, the investigations coordinator debriefed the tester, during which the tester gave a description of what happened during the test and discussed any issues or concerns that may have arisen. In some cases, where the investigations coordinator determined that additional information was needed, testers were instructed to call the agent back with additional questions.

g. Test Reports

After each test, the tester completed a Report Form in which they documented information gathered during the test, including the agent's name/title, the address of the unit, the number of bedrooms, the monthly rent amount, the security deposit amount, any lease options, the date of availability, and any other information that the agent may have provided or sought from the tester (e.g., the tester's income, employment, family size, etc.). In addition to the Report Form, the tester wrote and submitted a narrative description of what happened during the test, including all interactions with the housing provider.

5. **Email Investigation Procedures**

a. Property Selection

For each email investigation, the investigations coordinator searched online listings within the target geographic area and selected a listing that met the sampling techniques set forth above that also included an email address for the rental agent or an online form used to contact the rental agent electronically.^{xvi}

b. Profiles

The investigations coordinator then created three separate profiles – a protected profile, a control profile, and a vacancy-check profile. Only names that were clearly identifiable as Latinx were used for the protected profiles and only names that were clearly identifiable as white were used for the control profiles and the vacancy-check profiles.^{xvii}

All profiles were designed to avoid any indication of protected characteristics other than familial status and/or national origin. For example, none of the profiles included disabilities, spouses, rental subsidies, or other protected characteristics, so as not to introduce additional protected variables.

Control and protected profiles included at least one child while vacancy-check profiles did not include any children. The control profile included the same number of children as the matched protected profile and the control profile included children that were approximately the same ages as the children in the matched protected profile.

The protected profile and the control profile had roughly equivalent rental credentials, including similar household incomes and similar rental histories. However, the protected profiles had slightly higher incomes and slightly more stable rental histories than their control counterparts. All profiles included identical housing needs (e.g., number of bedrooms, date of availability, etc.).

The investigations coordinator created an email address for each profile. The email address for each profile included some variation of either the first, last or full name of the name associated with the profile. The investigations coordinator also assigned a temporary phone number to each profile, either through Google Voice or Burner App. The investigations coordinator had control over the phone and email accounts for each profile.

c. Email Tests

For each test, the investigations coordinator emailed the rental agent from the protected and control profiles' email addresses, posing as prospective renters.

The investigations coordinator first emailed the agent from the protected profile stating her interest in the property, her household size, and the number of children in her household. The investigations coordinator then, after a reasonable amount of time, sent an email to the agent from the control profile, which included the same information as the email from the protected profile, except the wording of the second email was changed just enough to avoid detection that the email was part of a test.

The investigations coordinator regularly checked the email accounts associated with each profile. If, after a reasonable amount of time, an email from either the protected profile or the control profile received no response from the listing agent, the investigations coordinator sent a follow up email from that profile. If at any time during an email test the rental agent requested information about the sender, the investigations coordinator responded according to the profile.

If both the protected and the control profiles received no response or both received responses stating that the unit was no longer available, the investigations coordinator sent an email from the vacancy-check profile stating his/her interest in the property and asking if the unit was still available.

III. AUDIT ANALYSIS

A. ANALYSIS PROCESS

For phone tests, FHANC compared the Report Forms and narratives for each test to assess whether matched testers received the same or different treatment from each other. FHANC also reviewed the experiences of the control and protected testers to determine whether there was evidence that the housing provider had any discriminatory policies or practices related to families with children and/or whether they made any discriminatory statements related to familial status, national origin, or any other protected class.

For email tests, FHANC compared the email exchanges between the housing provider and each profile to see whether the matched profiles received the same or different treatment/information from each other. In tests where the vacancy-check profile was deployed, FHANC reviewed all the exchanges to see if the vacancy-check profile received a more favorable response (or any response) in comparison to the control and protected profiles. FHANC also reviewed all the email exchanges to determine whether there was evidence that the housing provider had any discriminatory policies or practices related to families with children and/or whether they made any discriminatory statements related to familial status, national origin, or any other protected class.

When analyzing results, FHANC considered multiple factors, including but not limited to the following:

1. The housing provider's willingness to rent to each tester/profile;
2. Whether the housing provider offered superior rental terms and/or conditions (such as lower rent, lower security deposit, lower application fee, better lease options, additional/alternative rental options, extra amenities, and/or special offers) to the control tester/profile versus the protected tester/profile;
3. Whether the housing provider followed up with either tester/profile after the test was complete;
4. How the housing provider responded (or failed to respond) to initial contact or subsequent contacts by testers/profiles;
5. Information provided to the testers/profiles regarding applicant qualifications, eligibility, or rental criteria; and
6. The housing provider's comments and/or general treatment of testers/profiles indicating encouragement, discouragement, and/or steering.

B. CLASSIFICATIONS BASED ON STRENGTH OF EVIDENCE

FHANC analyzed each test for familial status discrimination and national origin discrimination separately. For each protected class category, tests that were not found to be inconclusive for that category were classified as either: 1) showing clear evidence of discrimination, 2) revealing some or potential evidence of discrimination, or 3) showing no or insufficient evidence of discrimination).

1. Clear Discrimination

For the purposes of this report, "clear evidence of discrimination" refers to clear violations of the Fair Housing Act (FHA) and/or the Fair Employment and Housing Act (FEHA), including but not limited to:

- Having a policy or practice of denying rental applications because the applicant has at least one minor child in their household and/or because the applicant is Latinx;
- Applying policies inconsistently based on national origin and/or familial status and/or willingness to make an exception to a stated policy for a white tester/profile but not a Latinx tester/profile or a tester without children but not a tester with children;
- Refusing to rent to or negotiate with a person because of their familial status and/or national origin;
- Having a maximum occupancy limit that has a disparate impact on families with children and is therefore discriminatory, pursuant to California's Civil Rights Department guidelines;
- Making a false representation about rental availability to a person because of their familial status and/or national origin (as evidenced by representations to other testers);

- Offering inferior terms, conditions, privileges, or services to a person because of their familial status and/or national origin;
- Suggesting another neighborhood or property would be more suitable because of a person's familial status and/or national origin (steering);
- Making discriminatory statements regarding a person's familial status and/or national origin;
- Responding to an inquiry from the control tester/profile after failing to respond to multiple inquiries from the protected tester/profile or responding to an inquiry from the vacancy-check profile after failing to respond to multiple inquiries from the profiles with children;
- Stating or indicating a preference for certain applicants based on their familial status and/or national origin or implying that a person's application would likely be denied because of their familial status and/or national origin; and/or
- Discouraging a person from applying because of their familial status and/or national origin.

2. Some/ Potential Discrimination

For the purposes of this report, "some/ potential evidence of disability discrimination" refers to some, but not clear, evidence of a discriminatory policy and/or other evidence that indicates a likelihood of discrimination, including but not limited to:

- Communicating less substantial differences in rental terms or eligibility criteria to each tester;
- Communicating different terms or eligibility criteria to each tester (where each tester speaks to a different agent);
- Making comments that could indicate a preference for families without children or renters that are not Latinx but are not conclusive;
- Responding to an inquiry from a control tester/profile after failing to respond to an inquiry from a protected tester/profile where the protected tester/profile made only one contact attempt;
- Causing delays in the application process by failing to answer questions about policies related to occupancy limits or other eligibility criteria after learning of a tester's protected status; and/or
- Making negative comments about a housing provider's legal obligation to comply with fair housing laws (despite being willing to rent to a tester with protected characteristics).

3. No/ Insufficient Discrimination

For the purposes of this report, "no/insufficient evidence of familial status discrimination" refers to tests where:

- The housing provider did not make any statements that could be interpreted as discriminatory on the basis of familial status;
- The housing provider did not make any statements indicating the existence of a discriminatory practice or policy regarding familial status or a policy that has a disparate impact on families with children; and
- In cases where a vacancy-check profile was deployed, the vacancy-check profile did not receive a response or better treatment than the profiles with children.

For the purposes of this report, “no/insufficient evidence of national origin discrimination” refers to tests where:

- The housing provider did not make any statements that could be interpreted as discriminatory on the basis of national origin;
- The housing provider did not make any statements indicating the existence of a discriminatory practice or policy related to nationality, ethnic background, or primary language; and
- Both testers received substantially similar information and/or treatment by the housing provider.

4. Inconclusive Tests

Some tests were determined to be inconclusive in one or both protected class categories (familial status and/or national origin) and were therefore not considered in the analysis for that category. Only tests that were not determined to be inconclusive for a particular protected class category were counted as qualifying tests in the analysis for that category. Tests were only classified as inconclusive if the tester was not given an opportunity to reveal their protected class status or there was insufficient contact between one tester and the housing provider to form a basis for comparison between the matched paired tests.

For example, a test would have been classified as inconclusive for national origin discrimination where one tester reached the housing provider on the first attempt, but the other did not reach the housing provider and instead left one or more voicemails to which they received no response. In this scenario, the test is inconclusive for national origin discrimination because there is no point of comparison between the two tests.^{xviii} There is no way to compare the housing provider’s response times or responsive behavior toward each tester because one tester left no voicemails (their call was answered on the first try), and therefore never required a response. Additionally there is no way to compare the treatment of each matched paired tester because only one tester made contact with the housing provider.

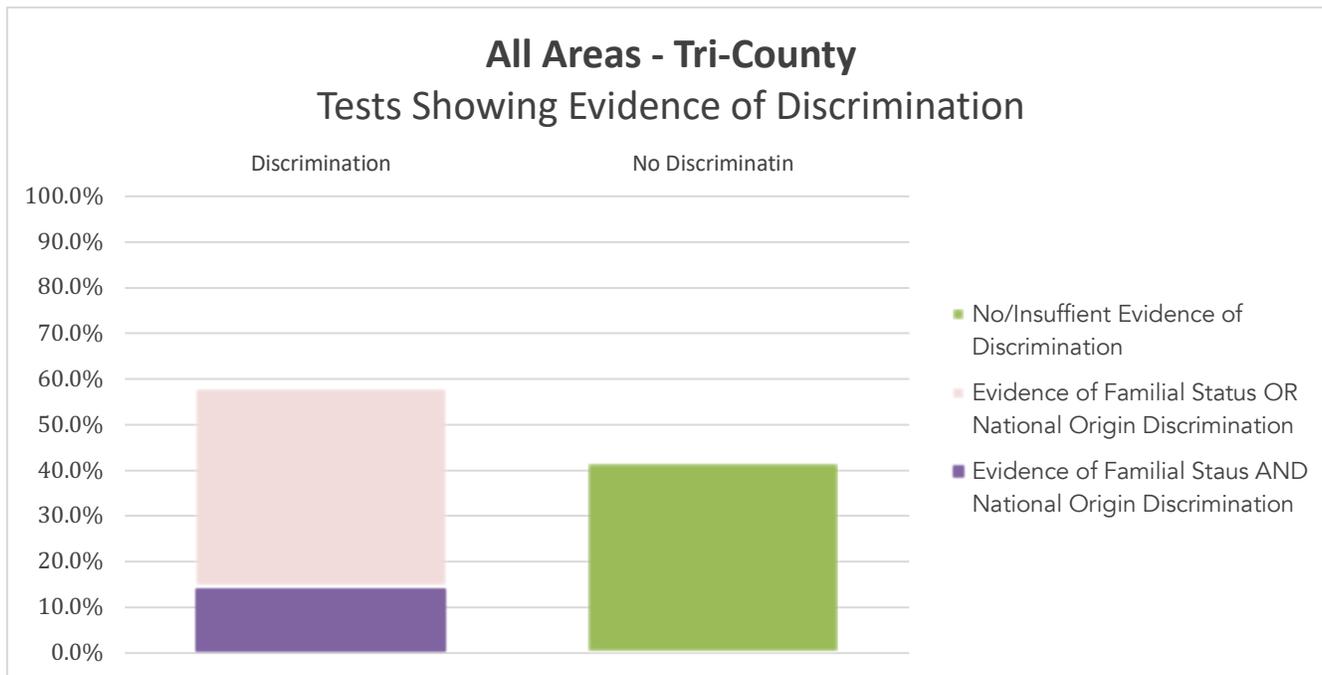
However, such a test would not be considered inconclusive for familial status discrimination, provided the tester who reached the housing provider disclosed that she had children and was therefore able to obtain information about any discriminatory policies, preferences, or practices related to families with children. Tests where the housing provider stated that the rental unit was no longer available before the tester had an opportunity to reveal that she had children in her household were determined to be inconclusive as to familial status discrimination.

III. AUDIT RESULTS

A. RESULTS BY GEOGRAPHIC REGION

1. All Areas – Tri-County

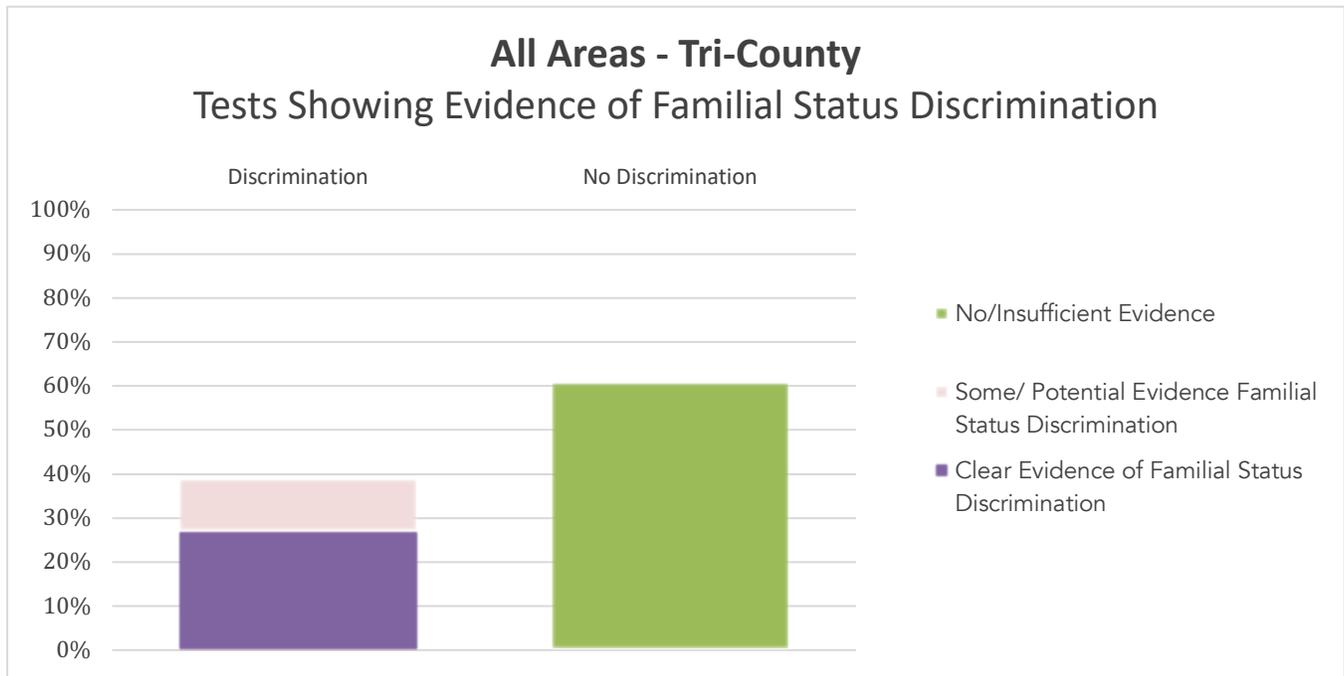
a. Familial Status and/or National Origin Discrimination



Of the 55 qualifying tests^{xi} conducted in Marin, Sonoma, and Solano counties, 58.2% revealed at least some evidence of discrimination based on familial status and/or national origin and 14.5% revealed evidence of discrimination based on both familial status and national origin; 41.8% revealed no/insufficient evidence of discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests ^{xx}
Evidence of Familial Status AND National Origin Discrimination	8	14.5%
Evidence of Familial Status OR National Origin Discrimination	24	43.6%
Evidence of Familial Status and/or National Origin Discrimination	32	58.2%
No/Insufficient Evidence of Discrimination	23	41.8%
Total	55	100.0%

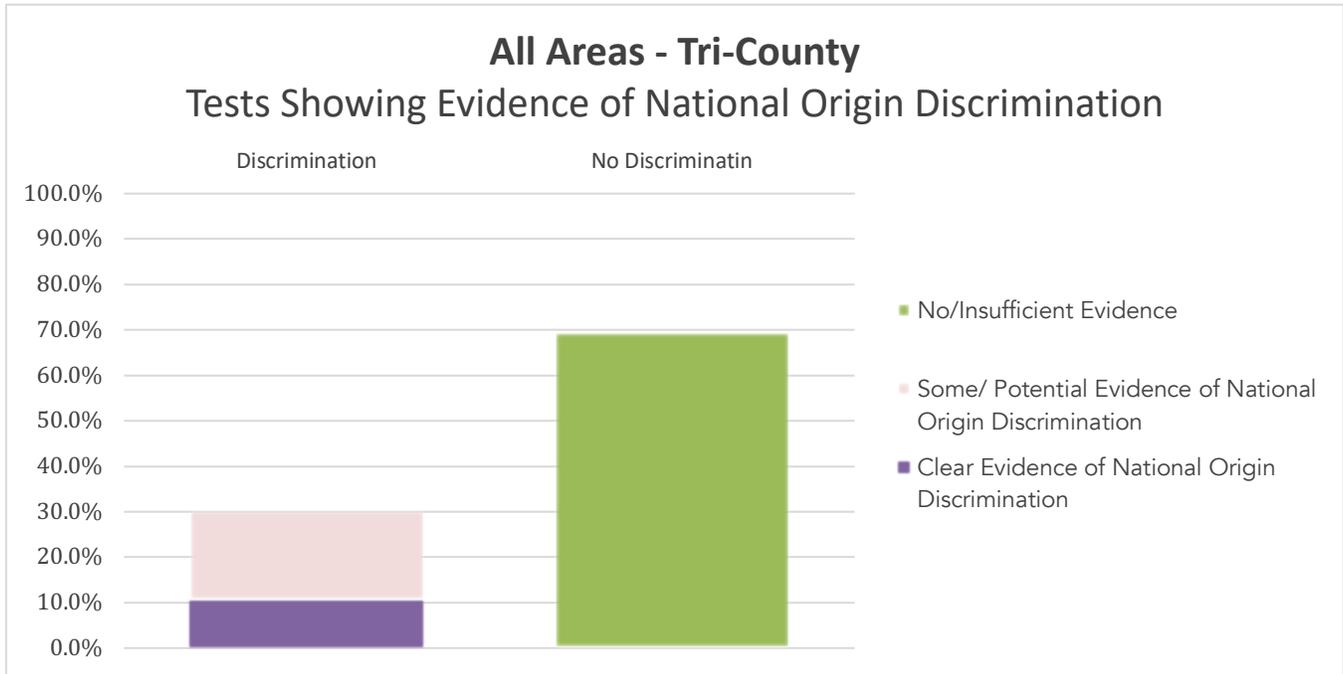
b. Familial Status Discrimination



Of the 59 qualifying tests^{xxi} conducted in Marin, Sonoma, and Solano counties, 39% revealed evidence of familial status discrimination, with 27.1% showing clear evidence of discrimination and an additional 11.9% showing some or potential evidence of discrimination; 61% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	16	27.1%
Some/ Potential Evidence of Familial Status Discrimination	7	11.9%
Total Familial Status Discrimination	23	39.0%
No/Insufficient Evidence of Familial Status Discrimination	36	61.0%
Total	59	100.0%

c. National Origin Discrimination

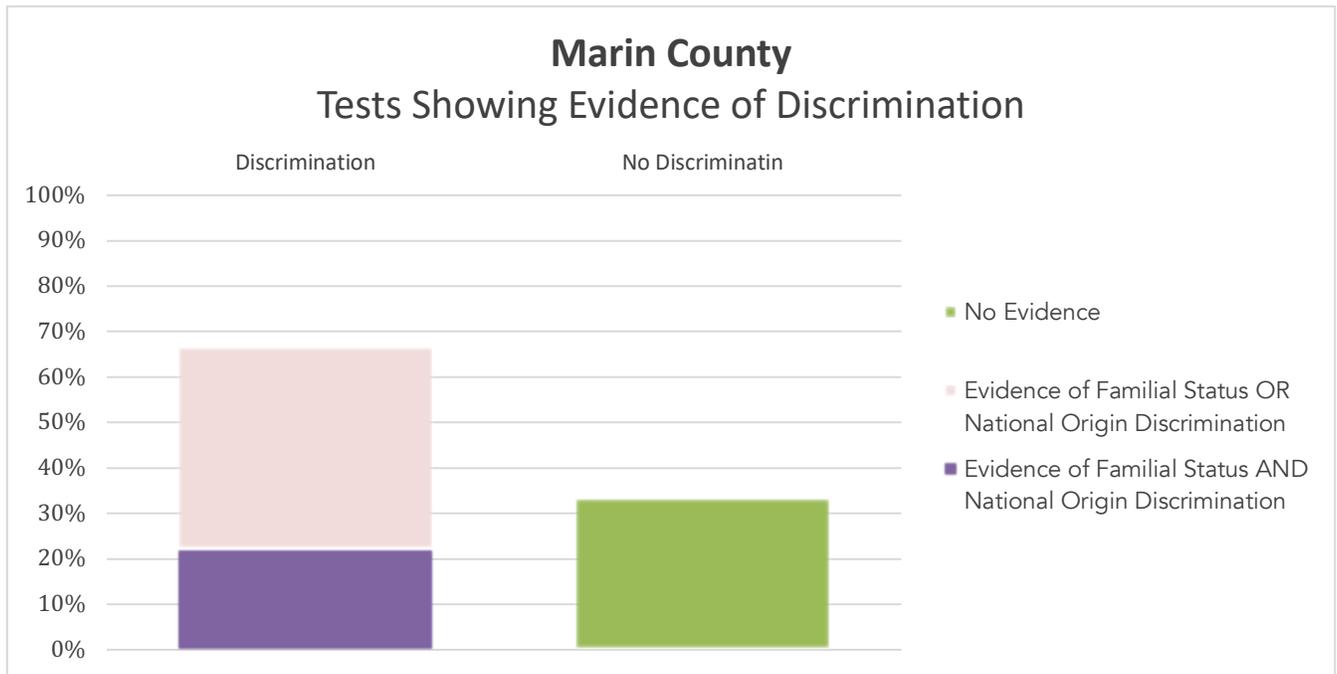


Of the 56 qualifying tests^{xxii} conducted in Marin, Sonoma, and Solano counties, 30.4% revealed evidence of national origin discrimination, with 10.7% showing clear evidence of discrimination and an additional 19.6% showing some or potential evidence of discrimination; 69.6% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests ^{xxiii}
Clear Evidence of National Origin Discrimination	6	10.7%
Some/ Potential Evidence of National Origin Discrimination	11	19.6%
Total National Origin Discrimination	17	30.4%
No/Insufficient Evidence of National Origin Discrimination	39	69.6%
Total	56	100.0%

2. Marin County

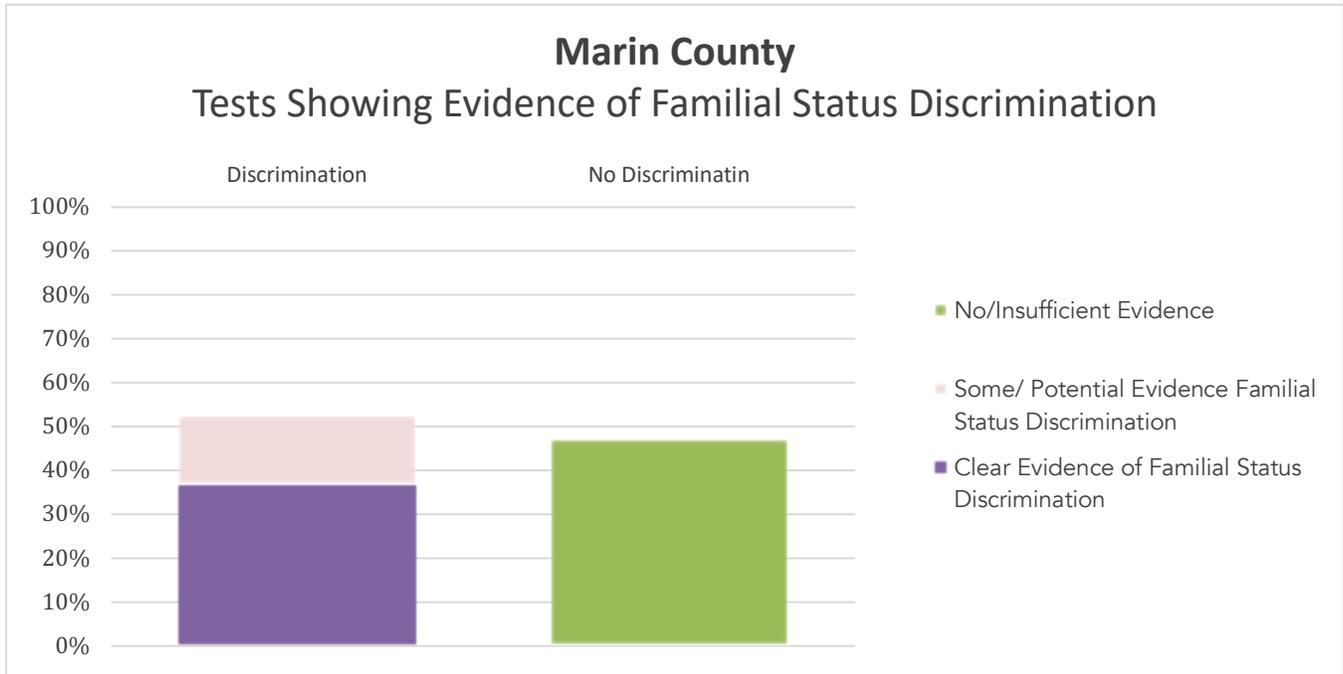
a. Familial Status and/or National Origin Discrimination



Of the 18 qualifying tests conducted in Marin County, 66.67% revealed at least some evidence of discrimination based on familial status and/or national origin, while only 33.33% revealed no/insufficient evidence of discrimination; 22.22% revealed evidence of discrimination based on both familial status and national origin.

Evidence of Discrimination	Number of Tests	Percent of Tests ^{xxiv}
Evidence of Familial Status AND National Origin Discrimination	4	22.2%
Evidence of Familial Status OR National Origin Discrimination	8	44.4%
Evidence of Familial Status and/or National Origin Discrimination	12	66.7%
No/Insufficient Evidence of Discrimination	6	33.3%
Total	18	100.0%

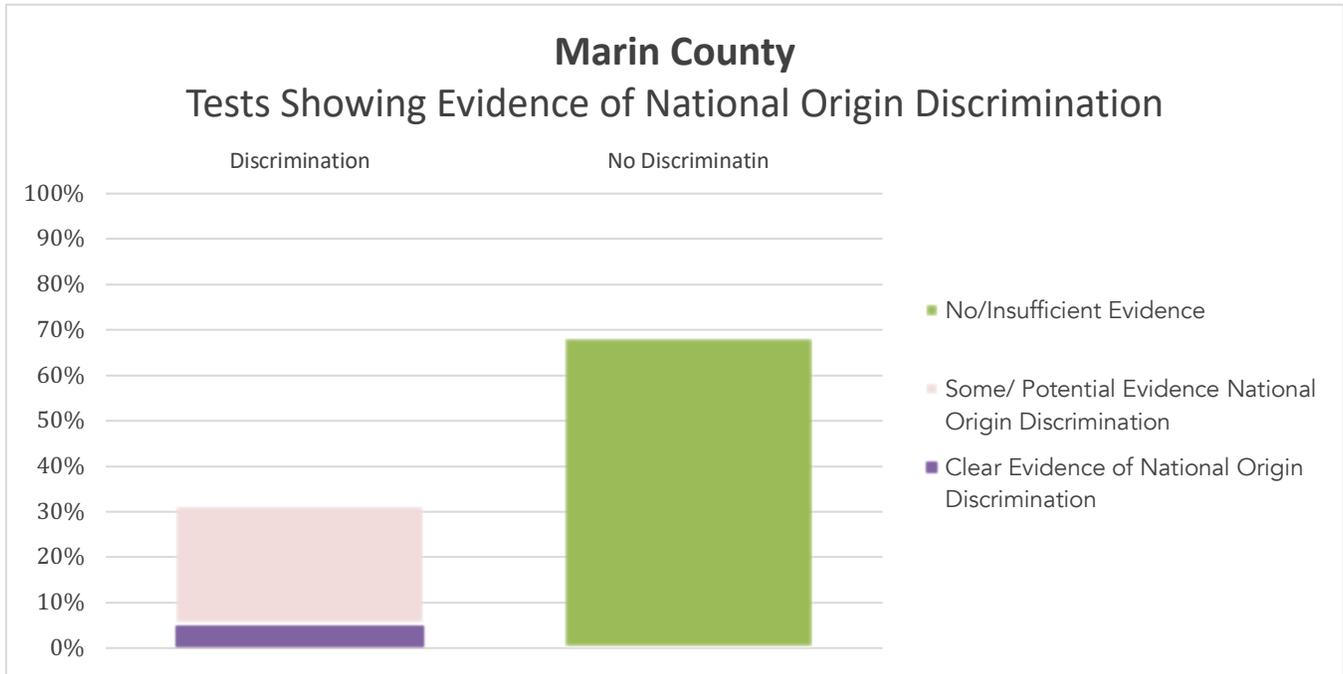
b. Familial Status Discrimination



Of the 19 qualifying tests conducted in Marin County, 52.6% revealed evidence of familial status discrimination; with 36.8% showing clear evidence of discrimination and an additional 15.8% showing some or potential evidence of discrimination; 47.4% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	7	36.8%
Some/ Potential Evidence of Familial Status Discrimination	3	15.8%
Total Familial Status Discrimination	10	52.6%
No/Insufficient Evidence of Familial Status Discrimination	9	47.4%
Total	19	100.0%

c. National Origin Discrimination

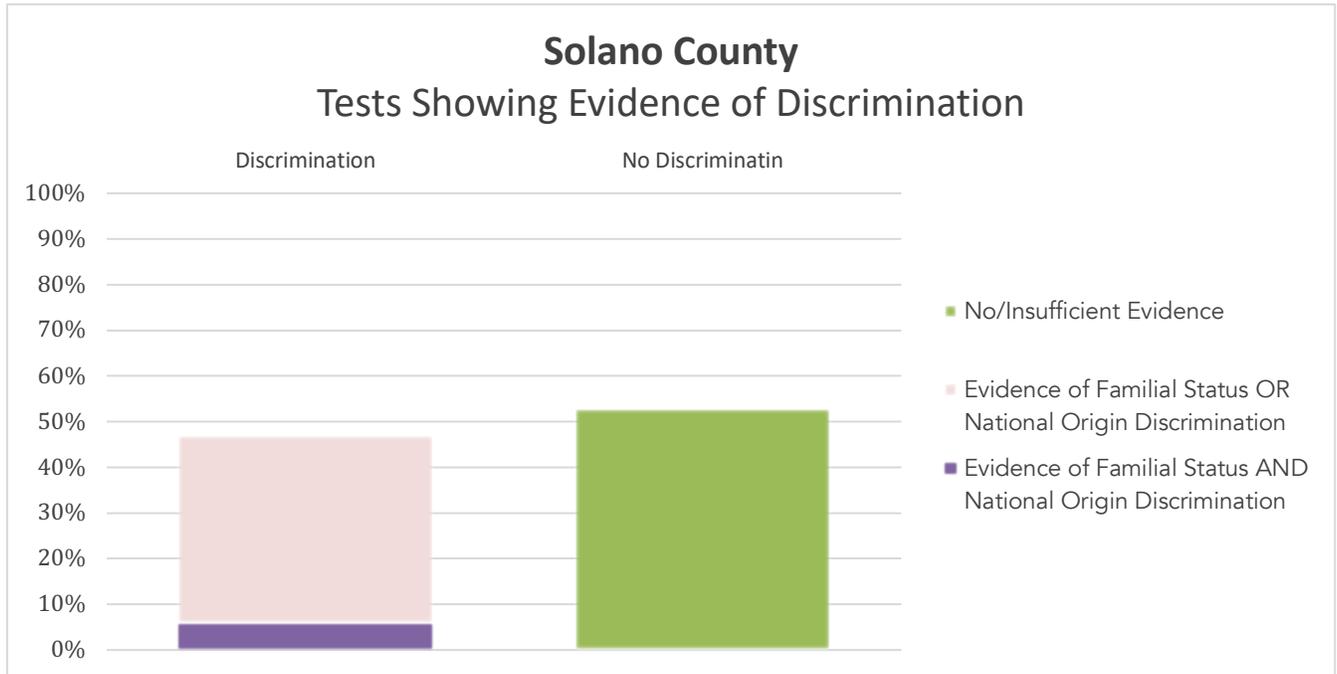


Of the 19 qualifying tests conducted in Marin County, 31.6% revealed evidence of national origin discrimination, 5.3% showing clear evidence of discrimination and an additional 26.3% showing some or potential evidence of discrimination; 68.4% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	1	5.3%
Some/ Potential Evidence of National Origin Discrimination	5	26.3%
Total National Origin Discrimination	6	31.6%
No/Insufficient Evidence of National Origin Discrimination	13	68.4%
Total	19	100.0%

3. Solano County

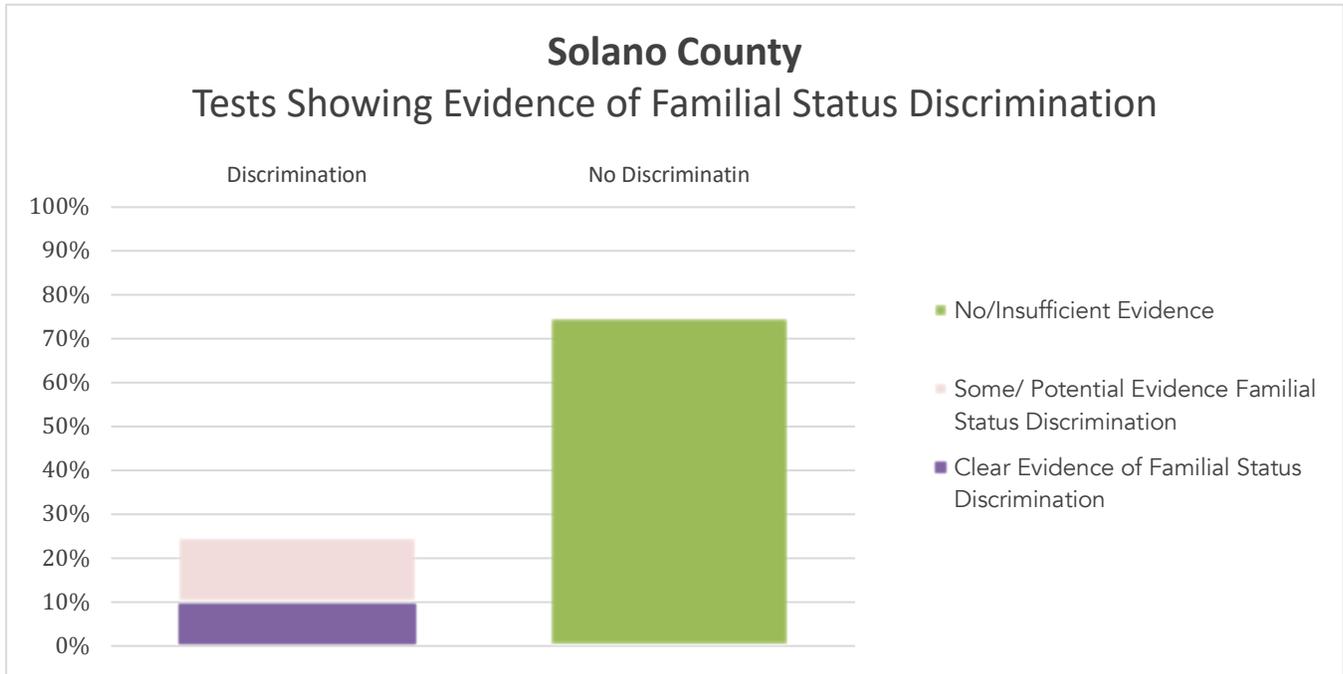
a. Familial Status and/or National Origin Discrimination



Of the 17 qualifying tests conducted in Solano County, 47.1% revealed at least some evidence of discrimination based on familial status and/or national origin, with 5.9% revealing evidence of discrimination based on both; 52.9% revealed no/insufficient evidence of discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	1	5.9%
Evidence of Familial Status OR National Origin Discrimination	7	41.2%
Evidence of Familial Status and/or National Origin Discrimination	8	47.1%
No/Insufficient Evidence of Discrimination	9	52.9%
Total	17	100.0%

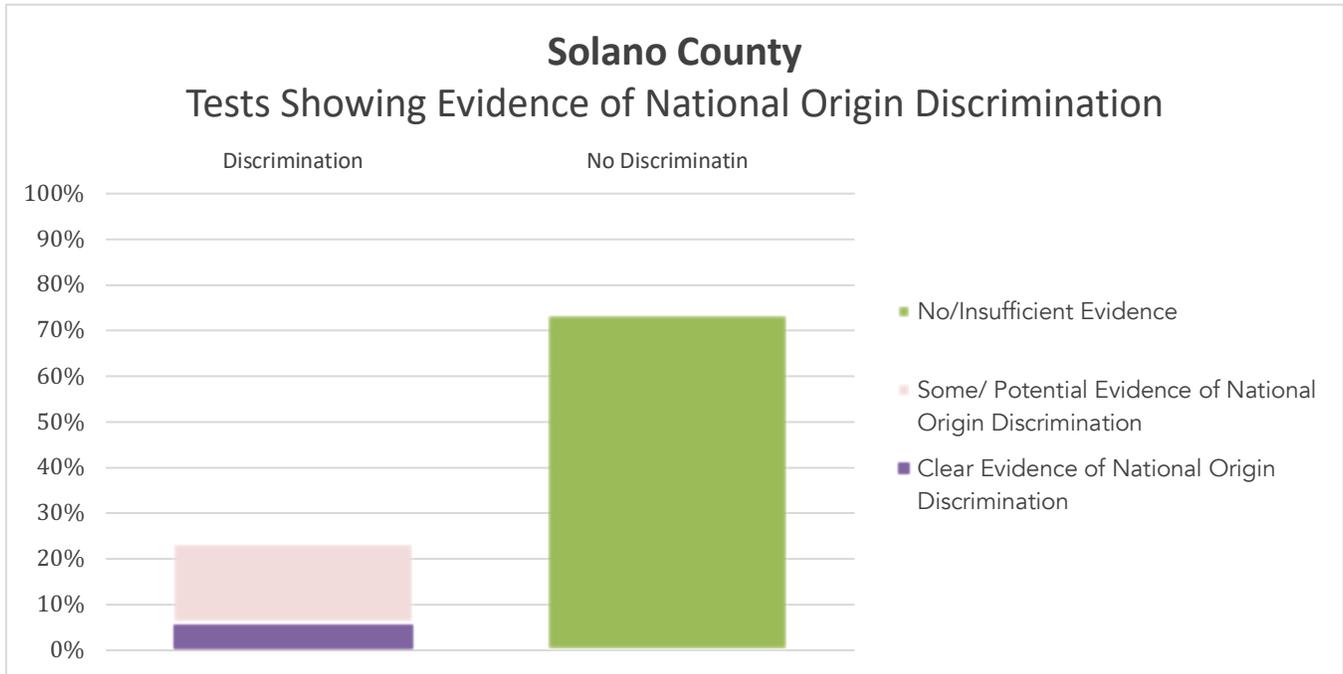
b. Familial Status Discrimination



Of the 20 qualifying tests conducted in Solano County, 25% revealed evidence of familial status discrimination, with 10% showing clear evidence of familial status discrimination and an additional 15% showing some or potential evidence of familial status discrimination. 75% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	2	10.0%
Some/ Potential Evidence of Familial Status Discrimination	3	15.0%
Total Familial Status Discrimination	5	25.0%
No/Insufficient Evidence of Familial Status Discrimination	15	75.0%
Total	20	100.0%

c. National Origin Discrimination

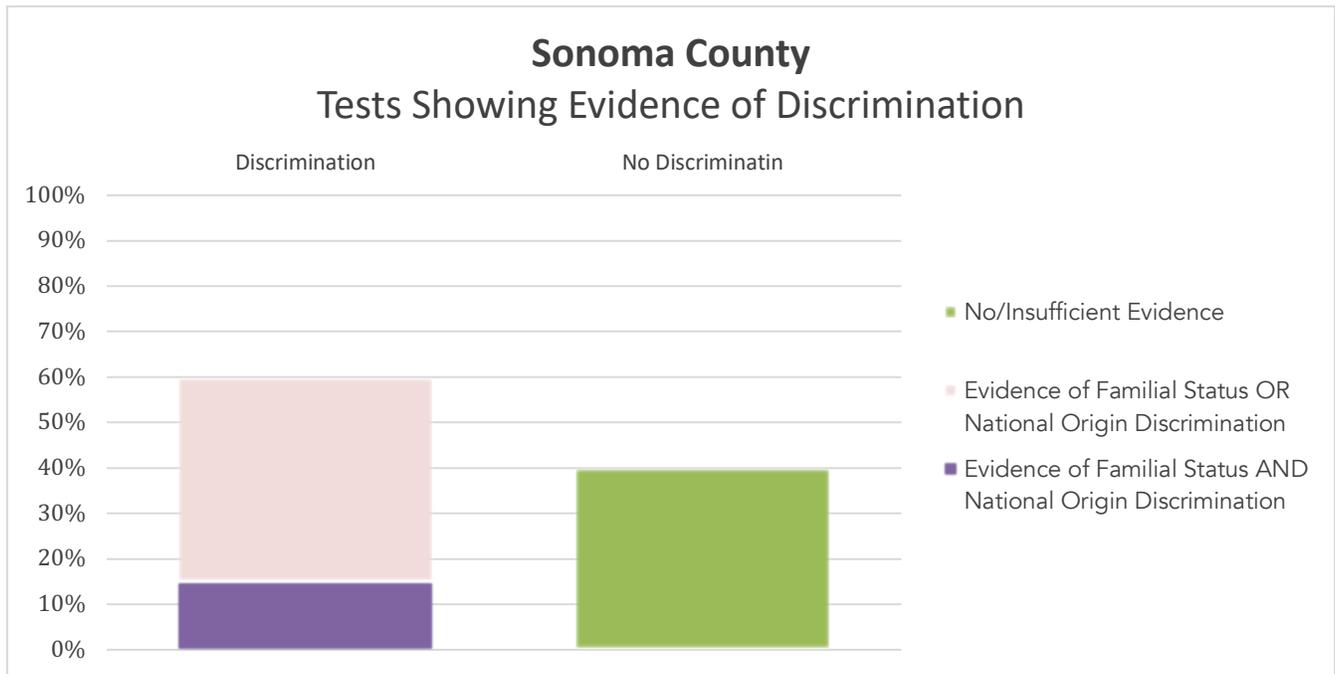


Of the 17 qualifying tests conducted in Solano County, 23.5% revealed evidence of national origin discrimination, with 5.9% showing clear evidence of discrimination and an additional 17.6% showing some or potential evidence of discrimination; 76.5% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	1	5.9%
Some/ Potential Evidence of National Origin Discrimination	3	17.6%
Total National Origin Discrimination	4	23.5%
No/Insufficient Evidence of National Origin Discrimination	13	76.5%
Total	17	100.0%

4. Sonoma County

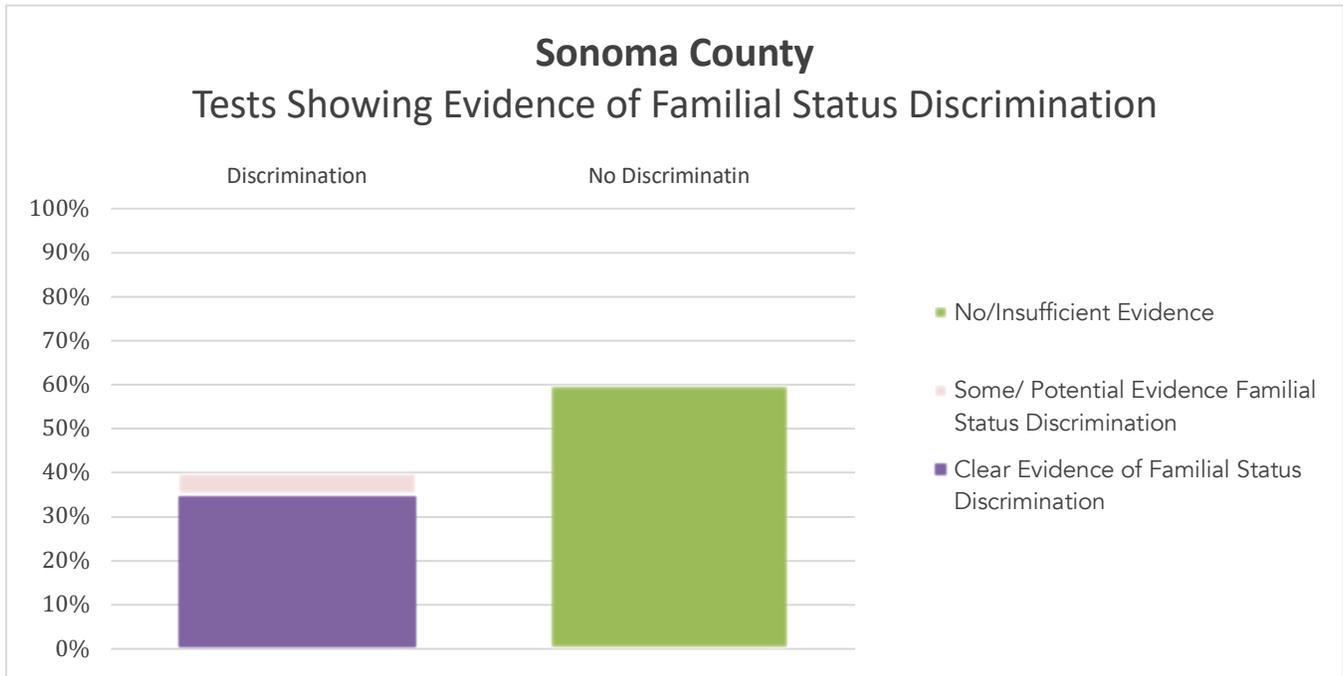
d. Familial Status and/or National Origin Discrimination



Of the 20 qualifying tests conducted in Sonoma County, 60% revealed at least some evidence of discrimination based on familial status and/or national origin, with 15% revealing evidence of discrimination based on both. Only 40% revealed no/insufficient evidence of discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	3	15.0%
Evidence of Familial Status OR National Origin Discrimination	9	45.0%
Evidence of Familial Status and/or National Origin Discrimination	12	60.0%
No/Insufficient Evidence of Discrimination	8	40.0%
Total	20	100.0%

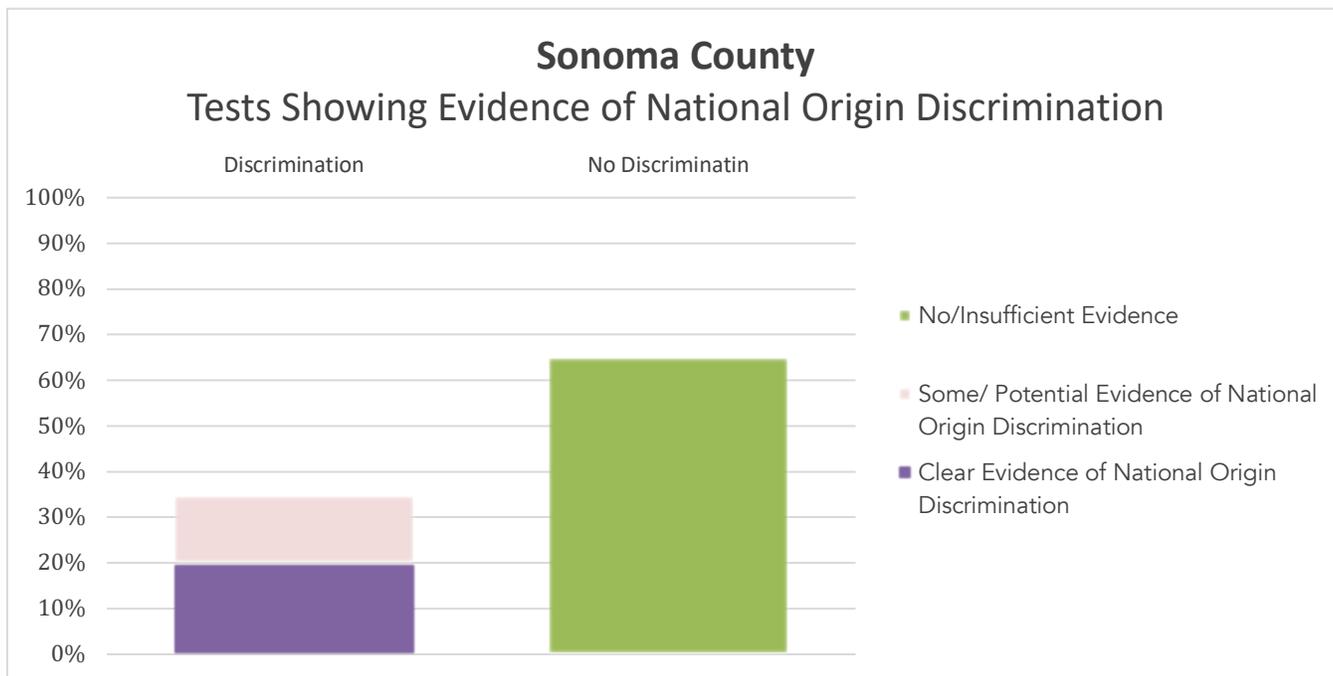
e. Familial Status Discrimination



Of the 20 qualifying tests conducted in Sonoma County, 40% revealed evidence of familial status discrimination, with 35% showing clear evidence of discrimination and an additional 5% revealing some or potential evidence of discrimination; 60% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	7	35.0%
Some/ Potential Evidence of Familial Status Discrimination	1	5.0%
Total Familial Status Discrimination	8	40.0%
No/Insufficient Evidence of Familial Status Discrimination	12	60.0%
Total	20	100.0%

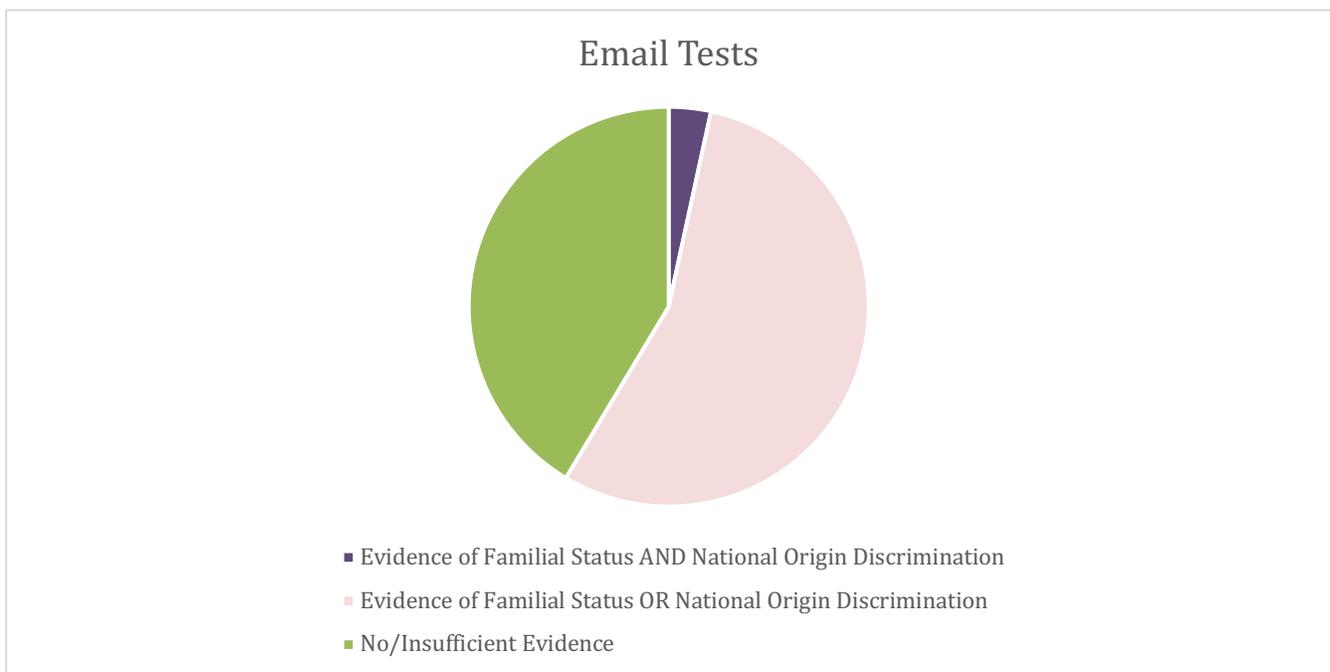
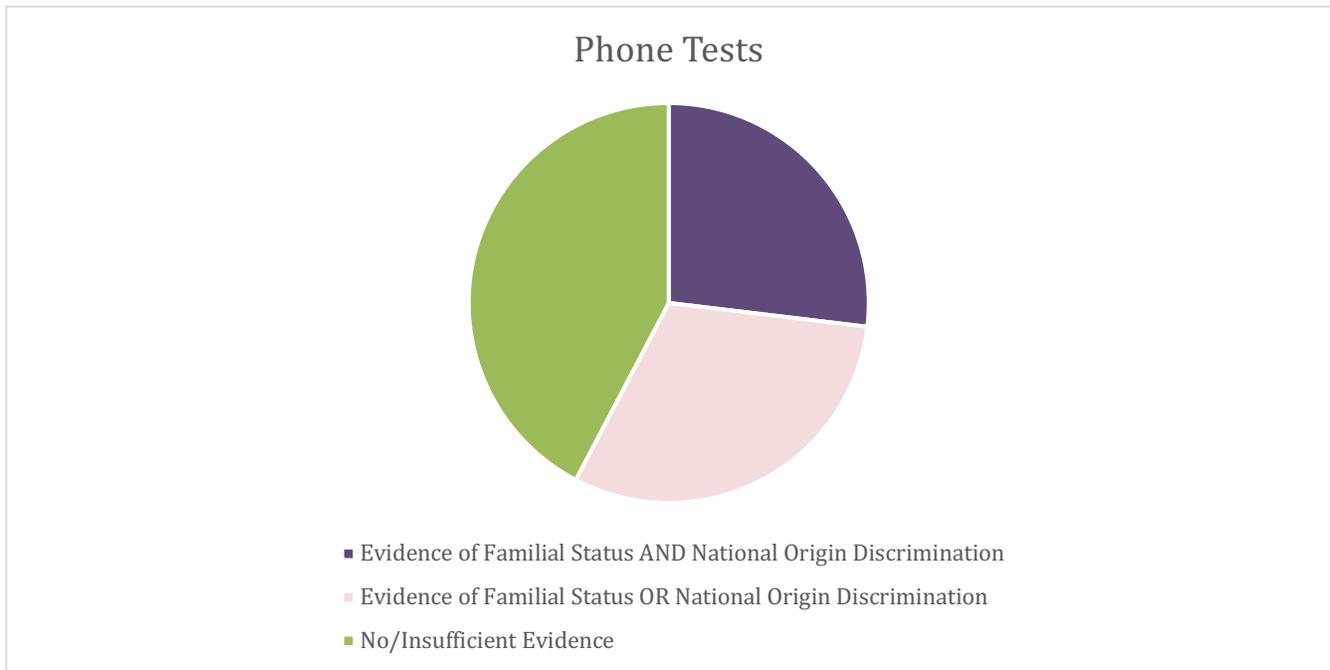
f. National Origin Discrimination



Of the 20 qualifying tests conducted in Sonoma County, 35% revealed evidence of national origin discrimination, with 20% showing clear evidence of discrimination and an additional 15% showing some or potential evidence of national origin discrimination; 65% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	4	20.0%
Some/ Potential Evidence of National Origin Discrimination	3	15.0%
Total National Origin Discrimination	7	35.0%
No/Insufficient Evidence of National Origin Discrimination	13	65.0%
Total	20	100.0%

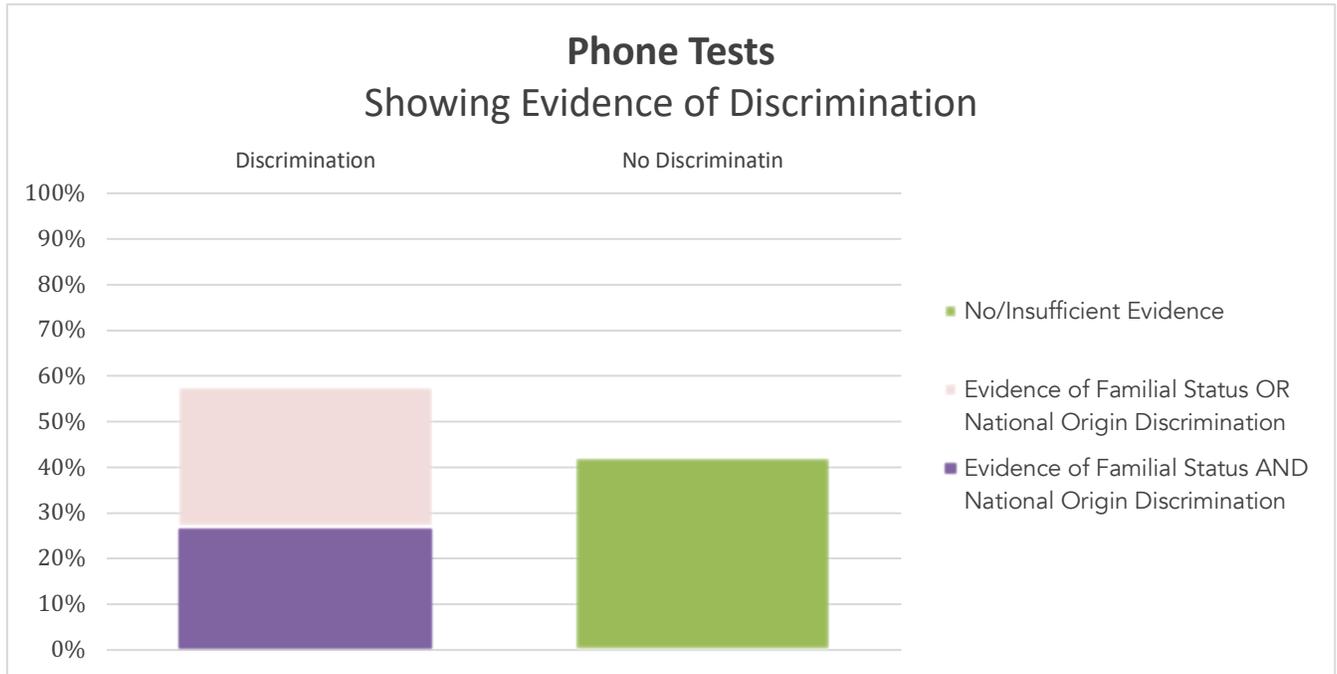
B. RESULTS BY TEST FORMAT



Of qualifying phone and email tests, 57.7% and 58.6%, respectively, revealed at least some evidence of discrimination based on familial status and/or national origin; 26.9% of phone tests and 3.4% of email tests revealed evidence of discrimination based on both familial status and national origin.

1. Phone Tests

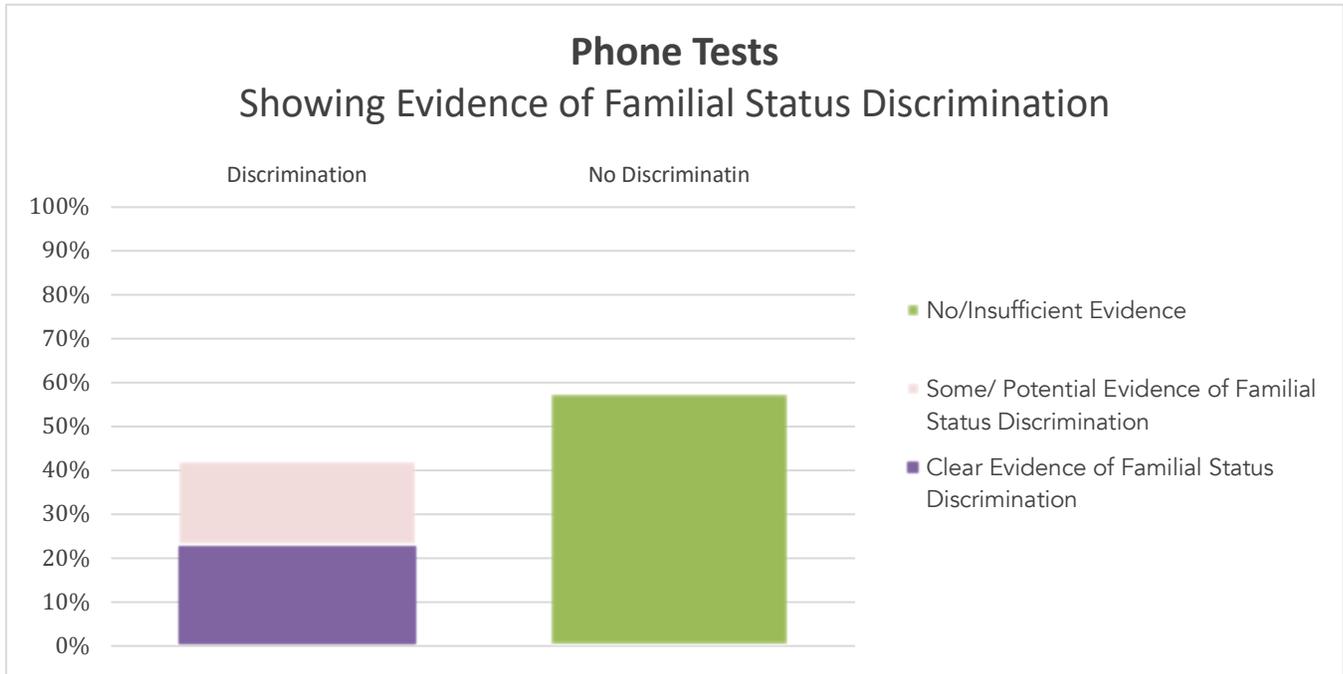
a. Familial Status and/or National Origin Discrimination



Of the 26 qualifying phone tests conducted in the tri-county area, 57.7% revealed at least some evidence of discrimination based on familial status and/or national origin, while 42.3% revealed no/insufficient evidence of discrimination; 26.9% revealed evidence of discrimination based on both familial status and national origin.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	7	26.9%
Evidence of Familial Status OR National Origin Discrimination	8	30.8%
Evidence of Familial Status and/or National Origin Discrimination	15	57.7%
No/Insufficient Evidence of Discrimination	11	42.3%
Total	26	100.0%

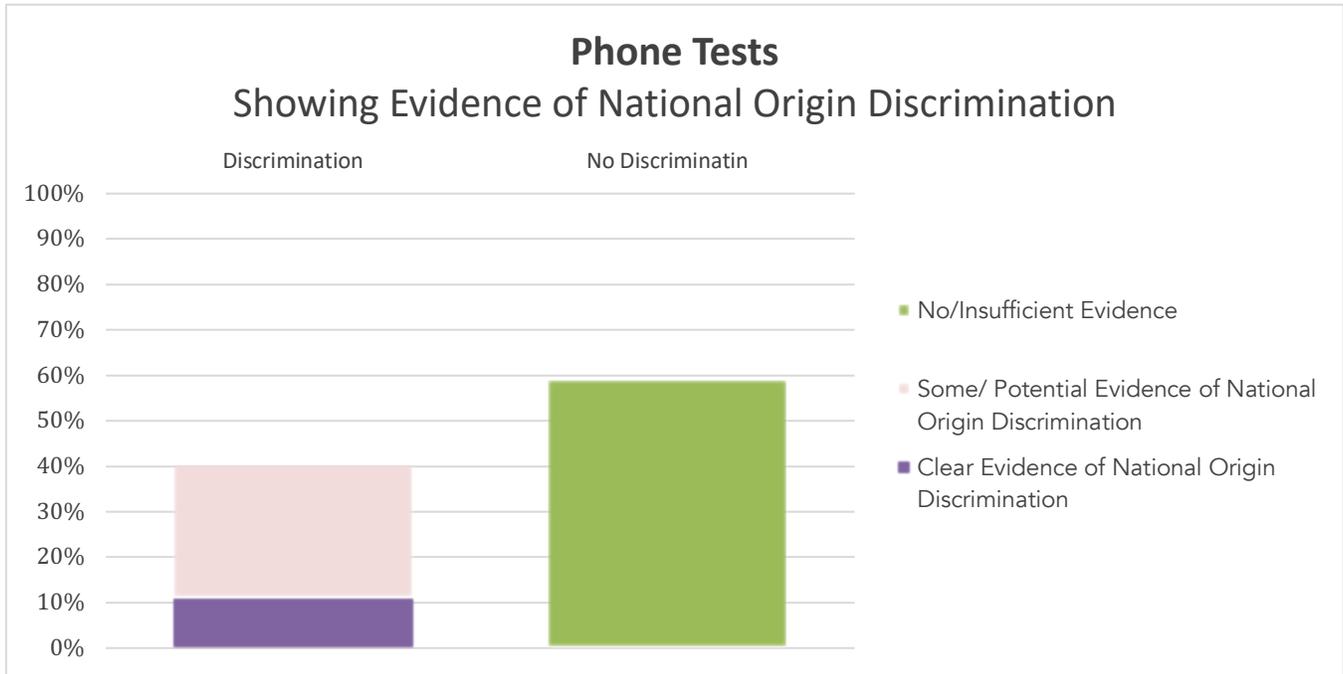
b. Familial Status Discrimination



Of the 30 qualifying phone tests conducted in the tri-county area, 42.3% revealed evidence of familial status discrimination, with 23.1% showing clear evidence of discrimination and an additional 19.2% showing some or potential evidence of discrimination; 57.7% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	6	20.0%
Some/ Potential Evidence of Familial Status Discrimination	5	16.7%
Total Familial Status Discrimination	11	36.7%
No/Insufficient Evidence of Familial Status Discrimination	19	63.3%
Total	30	100.0%

c. National Origin Discrimination

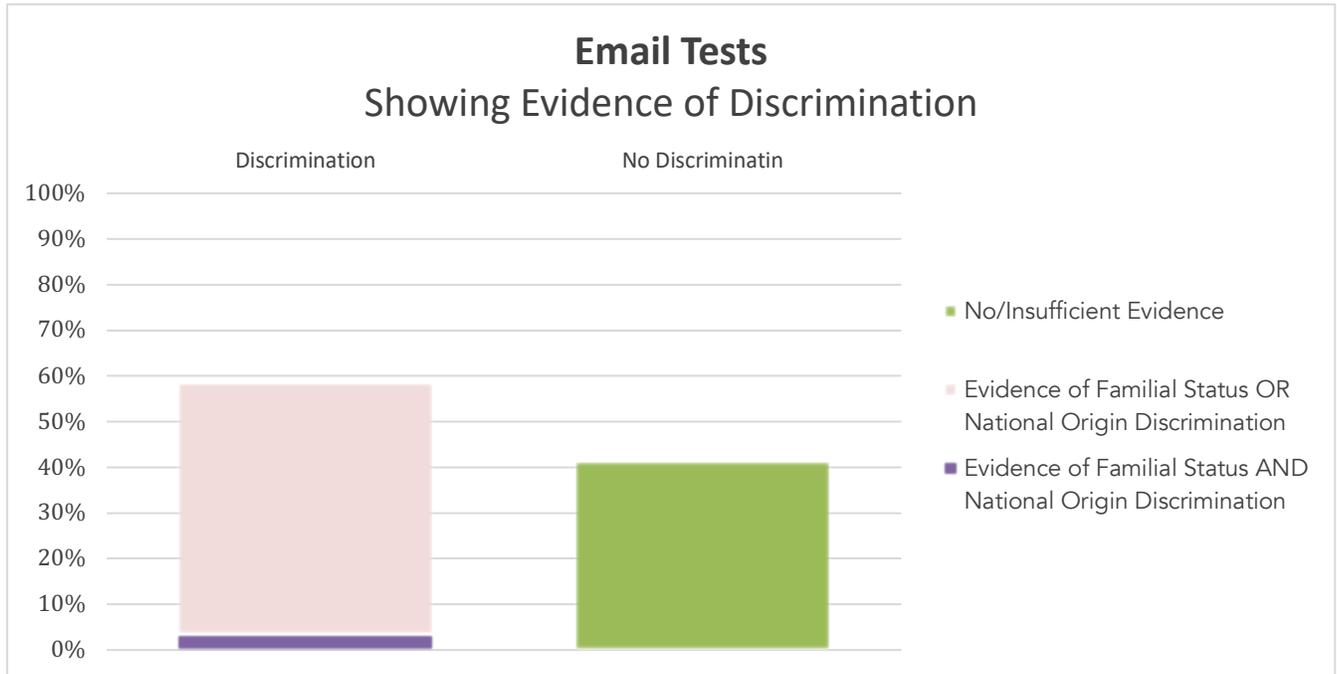


Of the 27 qualifying phone tests conducted in the tri-county area, 40.7% revealed evidence of national origin discrimination, with 11.1% showing clear evidence of discrimination and an additional 29.6% showing some or potential evidence of discrimination; 59.3% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	3	11.1%
Some/ Potential Evidence of National Origin Discrimination	8	29.6%
Total National Origin Discrimination	11	40.7%
No/Insufficient Evidence of National Origin Discrimination	16	59.3%
Total	27	100.0%

2. Email Tests

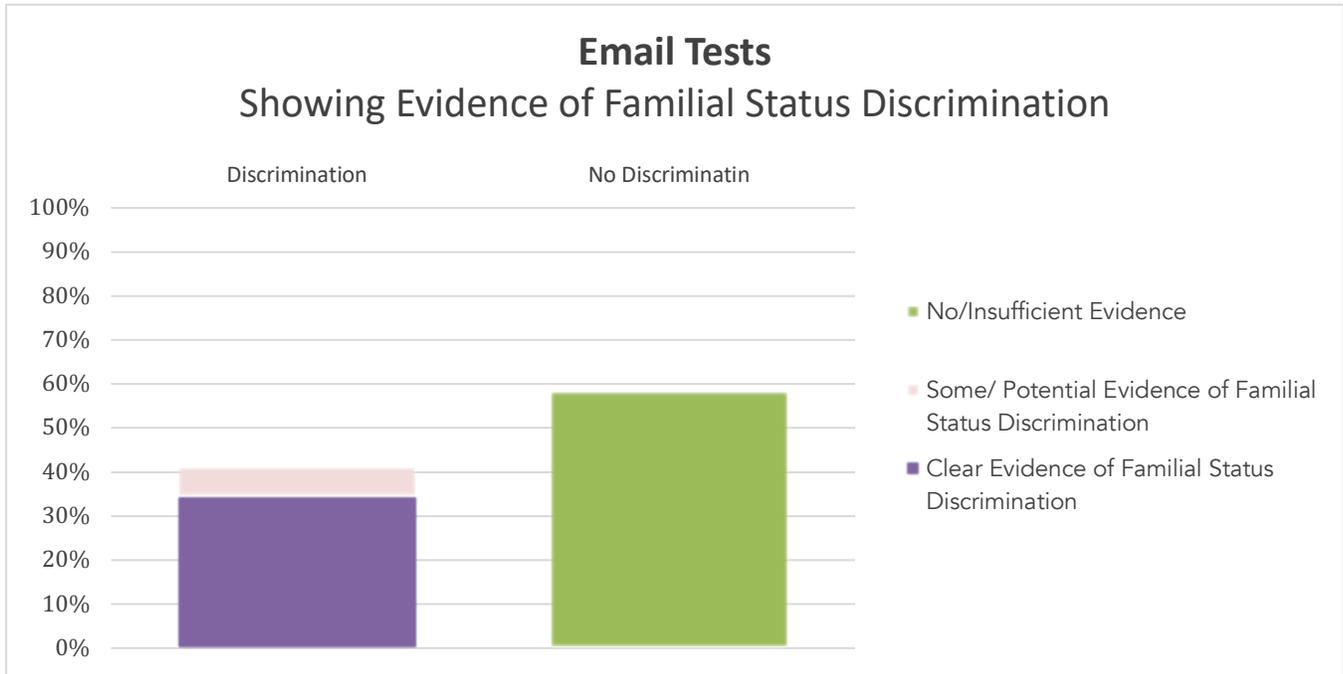
a. Familial Status and/or National Origin Discrimination



Of the 29 qualifying email tests conducted in the tri-county area, 58.6% revealed at least some evidence of discrimination based on familial status and/or national origin, while 41.4% revealed no/insufficient evidence of discrimination; 3.4% revealed evidence of discrimination based on both familial status and national origin.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	1	3.4%
Evidence of Familial Status OR National Origin Discrimination	16	55.2%
Evidence of Familial Status and/or National Origin Discrimination	17	58.6%
No/Insufficient Evidence of Discrimination	12	41.4%
Total	29	100.0%

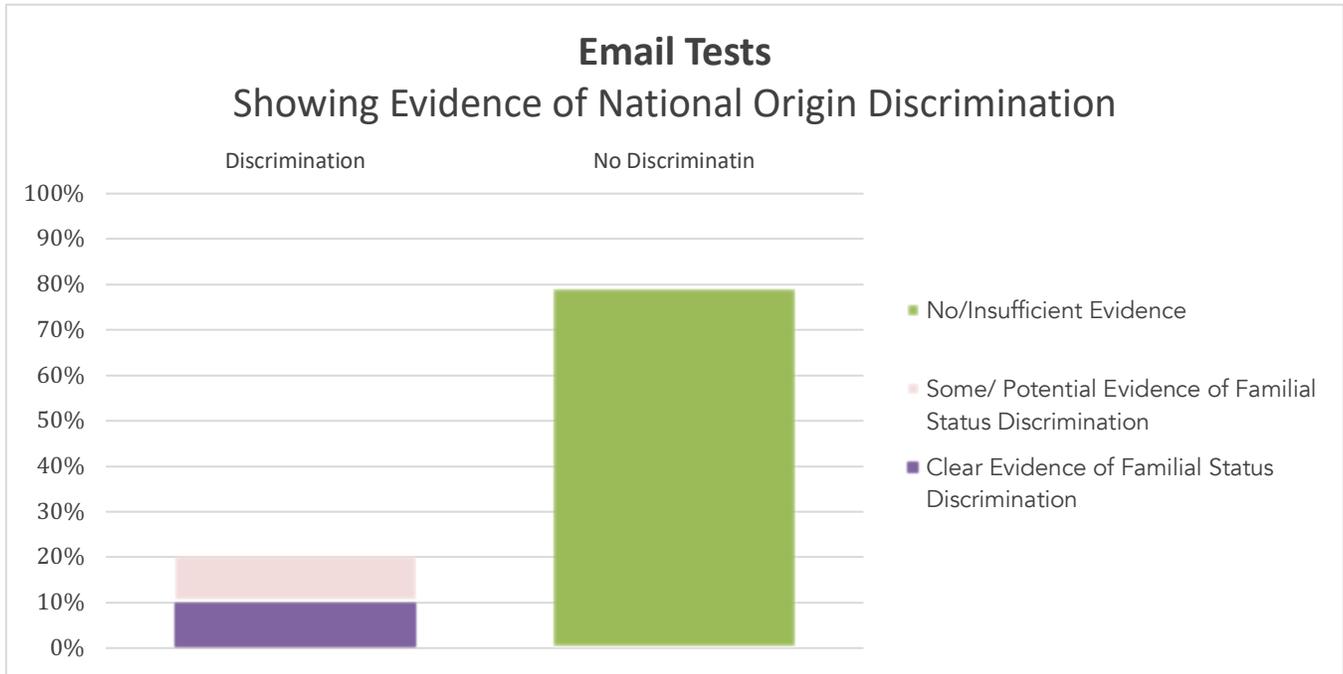
b. Familial Status Discrimination



Of the 29 qualifying email tests conducted in the tri-county area, 41.4% revealed evidence of familial status discrimination; with 34.5% showing clear evidence of discrimination and an additional 6.9% showing some or potential evidence of discrimination; 58.6% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	10	34.5%
Some/ Potential Evidence of Familial Status Discrimination	2	6.9%
Total Familial Status Discrimination	12	41.4%
No/Insufficient Evidence of Familial Status Discrimination	17	58.6%
Total	29	100.0%

c. National Origin Discrimination



Of the 29 qualifying email tests conducted in the tri-county area, 20.7% revealed evidence of national origin discrimination, with 10.3% showing clear evidence of discrimination and an additional 10.3% showing some or potential evidence of discrimination; 79.3% revealed no/insufficient evidence of national origin discrimination.

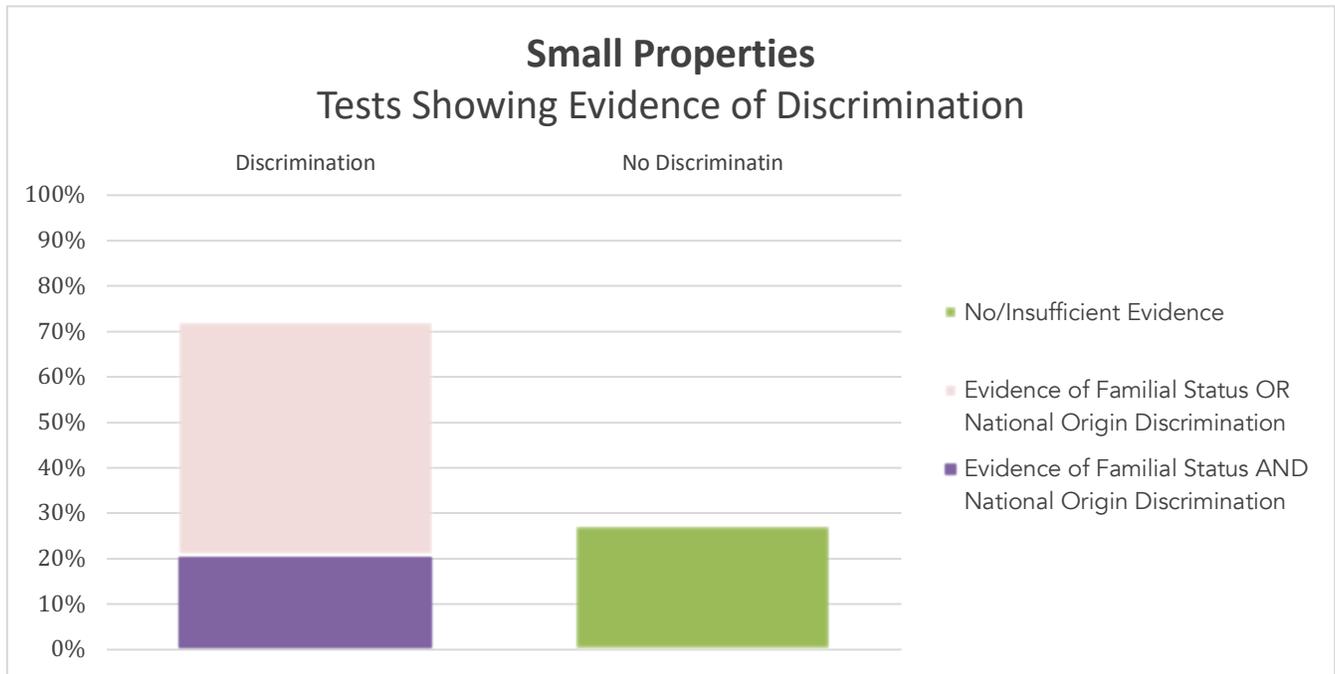
Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	3	10.3%
Some/ Potential Evidence of National Origin Discrimination	3	10.3%
Total National Origin Discrimination	6	20.7%
No/Insufficient Evidence of National Origin Discrimination	23	79.3%
Total	29	100.0%

C. RESULTS BY PROPERTY SIZE

For the purpose of this audit, a “small property” refers to a property with 4 units or fewer, a “medium property” refers to a property with 5 to 50 units, and a “large property” is a property with more than 50 units. Of the 60 properties tested, 31 are small properties (comprising 69 total units), 13 are medium properties (comprising 207 total units), and 14 are large properties (comprising 2,646 total units).

1. Small Properties

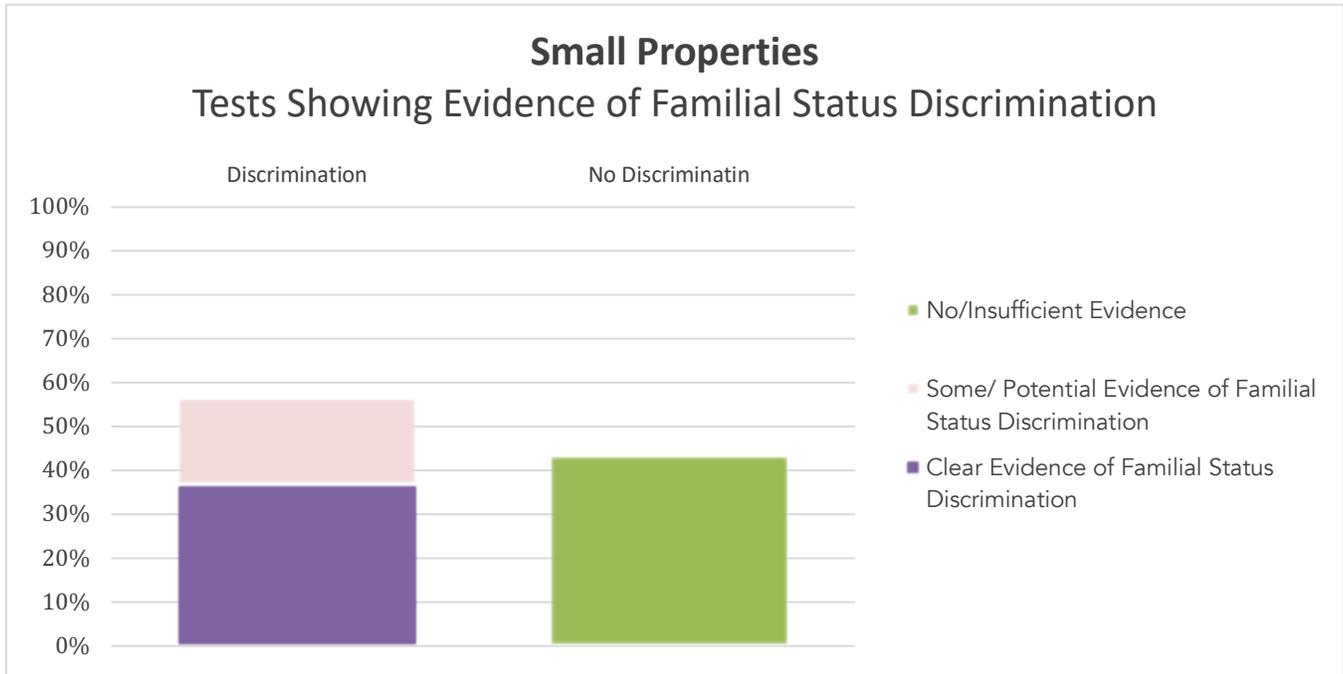
a. Familial Status and/or National Origin Discrimination



Of the 29 qualifying tests conducted at small properties in the tri-county area, 72.4% revealed at least some evidence of discrimination based on familial status and/or national origin, while only 27.6% revealed no/insufficient evidence of discrimination; 20.7% revealed evidence of discrimination based on both familial status and national origin.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	6	20.7%
Evidence of Familial Status OR National Origin Discrimination	15	51.7%
Evidence of Familial Status and/or National Origin Discrimination	21	72.4%
No/Insufficient Evidence of Discrimination	8	27.6%
Total	29	100.0%

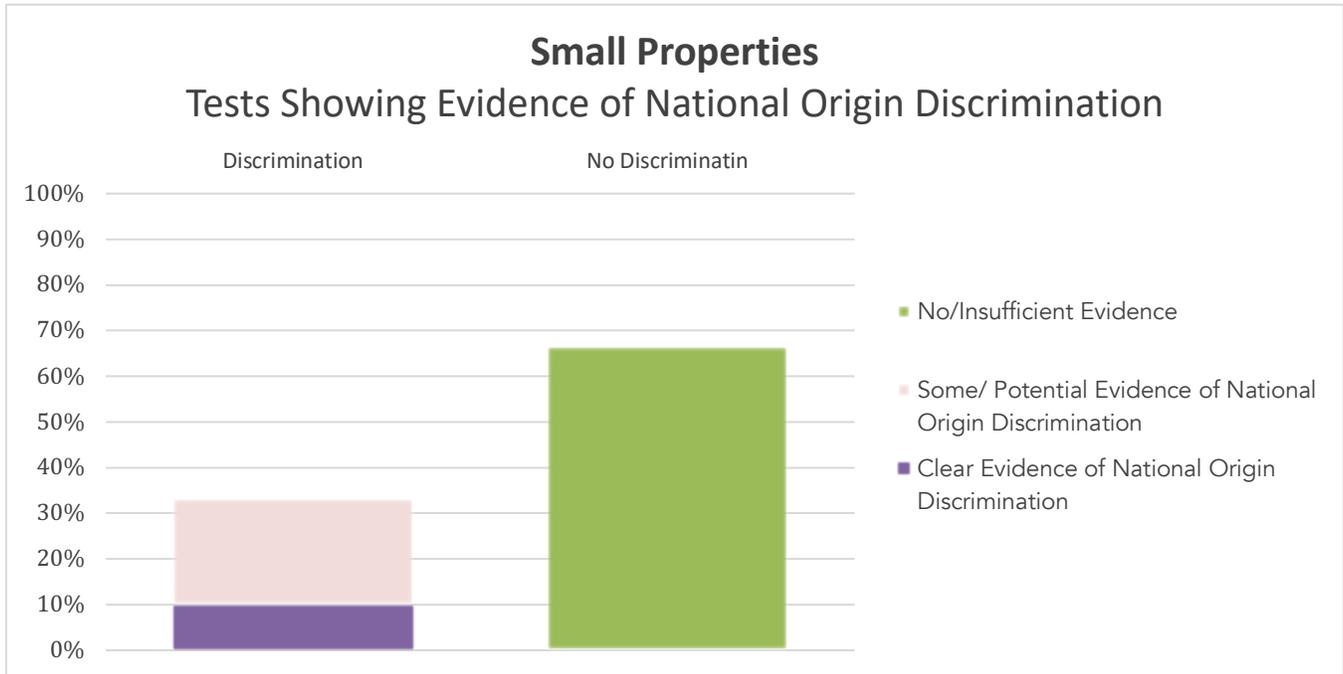
b. Familial Status Discrimination



Of the 30 qualifying tests conducted at small properties in the tri-county area, 56.7% revealed evidence of familial status discrimination, with 36.7% showing clear evidence of discrimination and an additional 20% showing some or potential evidence of discrimination; 43.3% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	11	36.7%
Some/ Potential Evidence of Familial Status Discrimination	6	20.0%
Total Familial Status Discrimination	17	56.7%
No/Insufficient Evidence of Familial Status Discrimination	13	43.3%
Total	30	100.0%

c. National Origin Discrimination

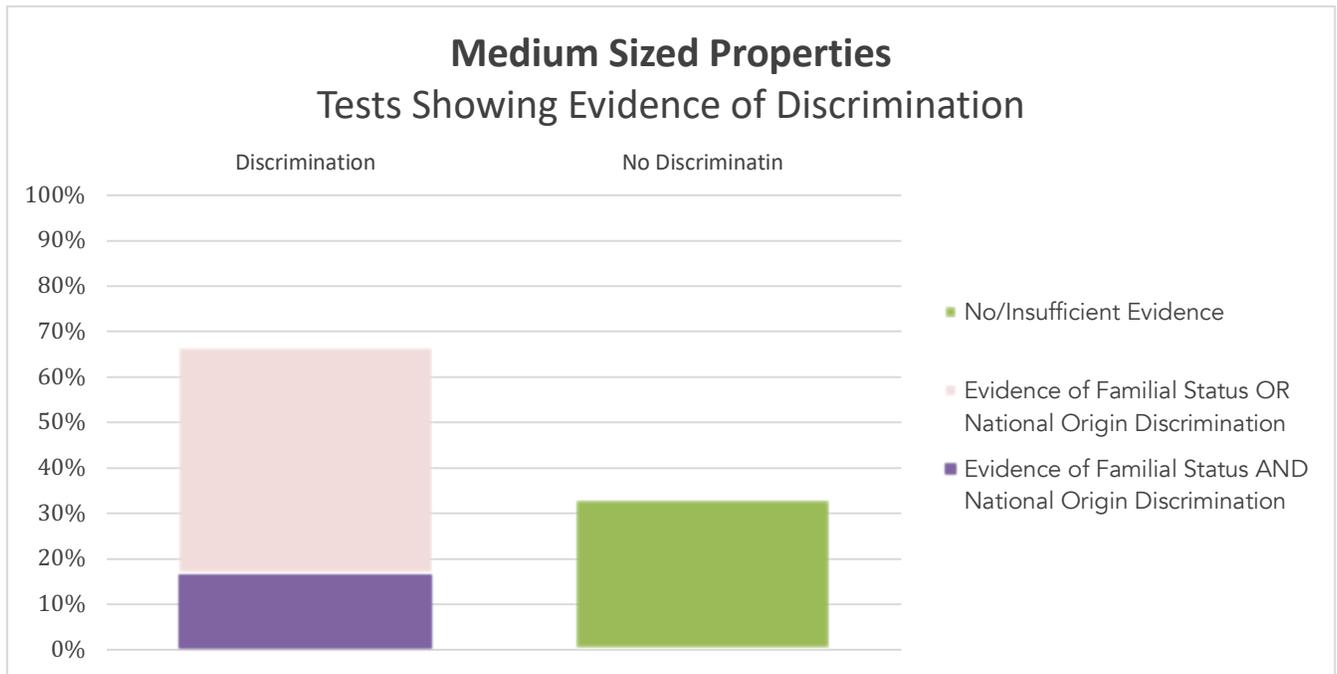


Of the 30 qualifying tests conducted at small properties in the tri-county area, 33.3% revealed evidence of national origin discrimination, with 10% showing clear evidence of discrimination and an additional 23.3% showing some or potential evidence of discrimination; 66.7% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	3	10.0%
Some/ Potential Evidence of National Origin Discrimination	7	23.3%
Total National Origin Discrimination	10	33.3%
No/Insufficient Evidence of National Origin Discrimination	20	66.7%
Total	30	100.0%

2. Medium Properties

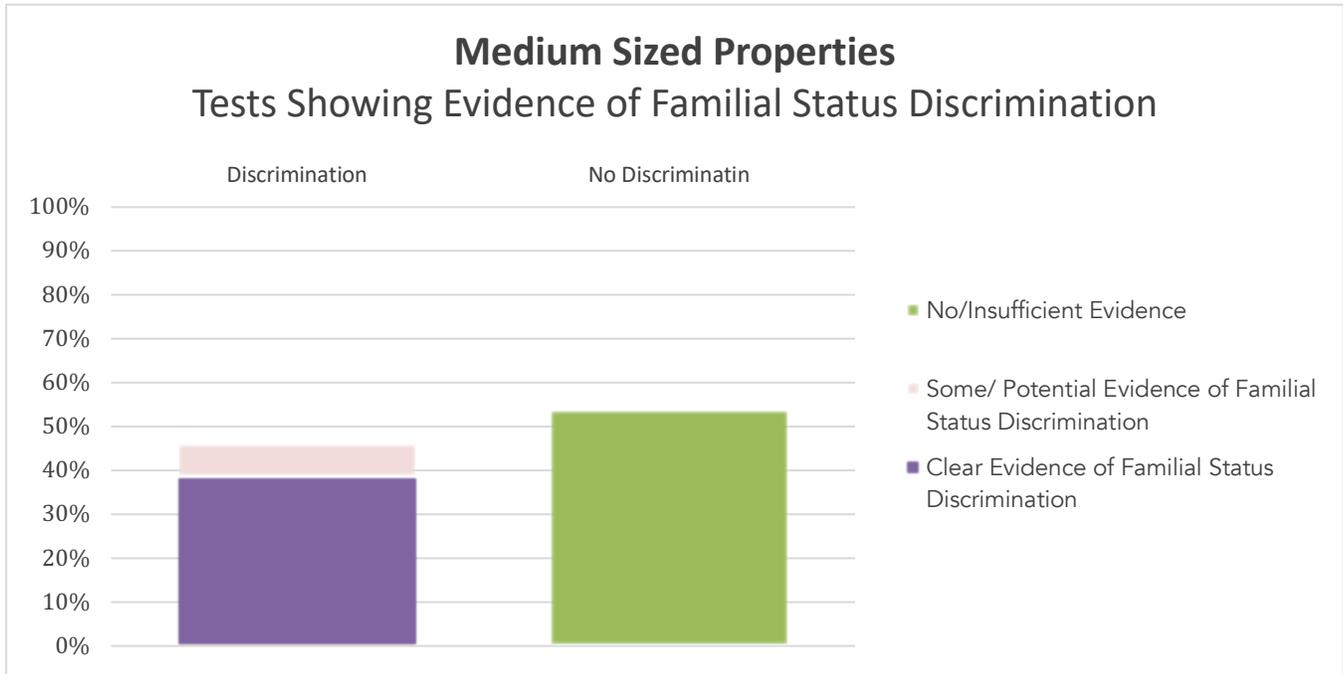
d. Familial Status and/or National Origin Discrimination



Of the 12 qualifying tests conducted at medium sized properties in the tri-county area, 66.7% revealed at least some evidence of discrimination based on familial status and/or national origin, while only 33.3% revealed no/insufficient evidence of discrimination; 16.7% revealed evidence of discrimination based on both familial status and national origin.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	2	16.7%
Evidence of Familial Status OR National Origin Discrimination	6	50.0%
Evidence of Familial Status and/or National Origin Discrimination	8	66.7%
No/Insufficient Evidence of Discrimination	4	33.3%
Total	12	100.0%

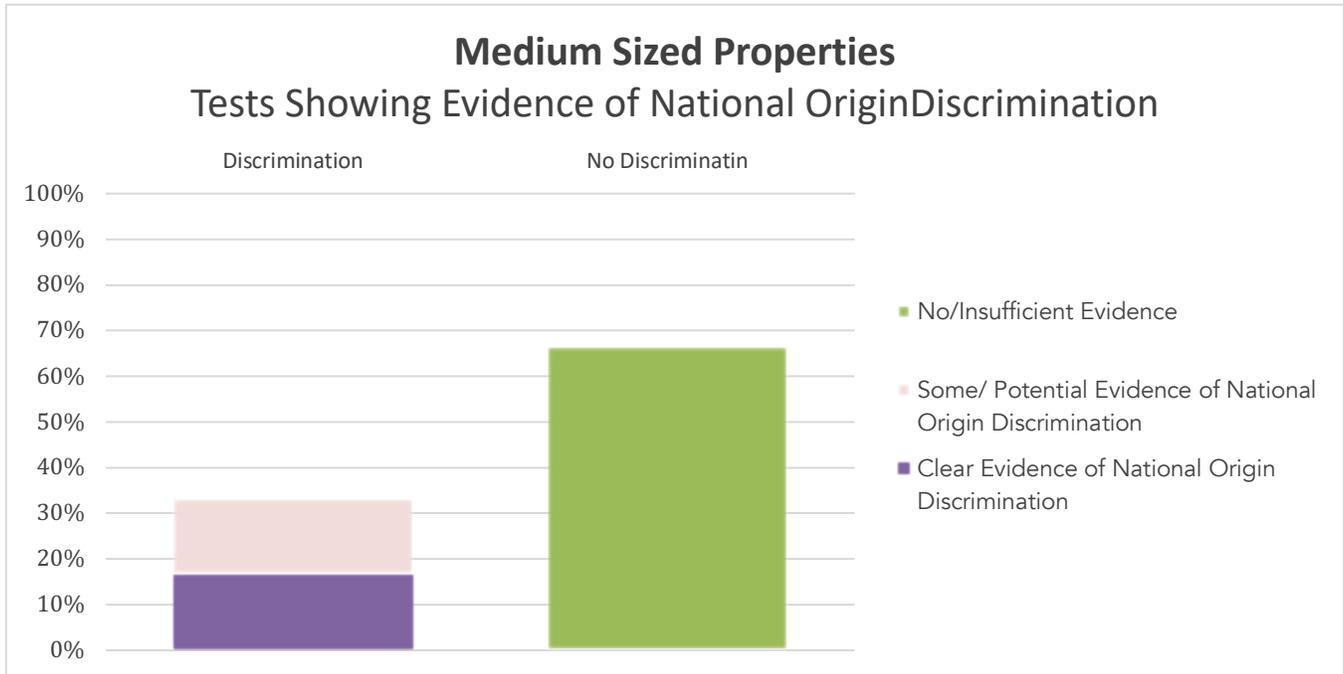
e. Familial Status Discrimination



Of the 13 qualifying tests conducted at medium sized properties in the tri-county area, 46.2% revealed evidence of familial status discrimination, with 38.5% showing clear evidence of discrimination and an additional 7.7% showing some or potential evidence of discrimination; 53.8% revealed no/insufficient evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	5	38.5%
Some/ Potential Evidence of Familial Status Discrimination	1	7.7%
Total Familial Status Discrimination	6	46.2%
No/Insufficient Evidence of Familial Status Discrimination	7	53.8%
Total	13	100.0%

f. National Origin Discrimination

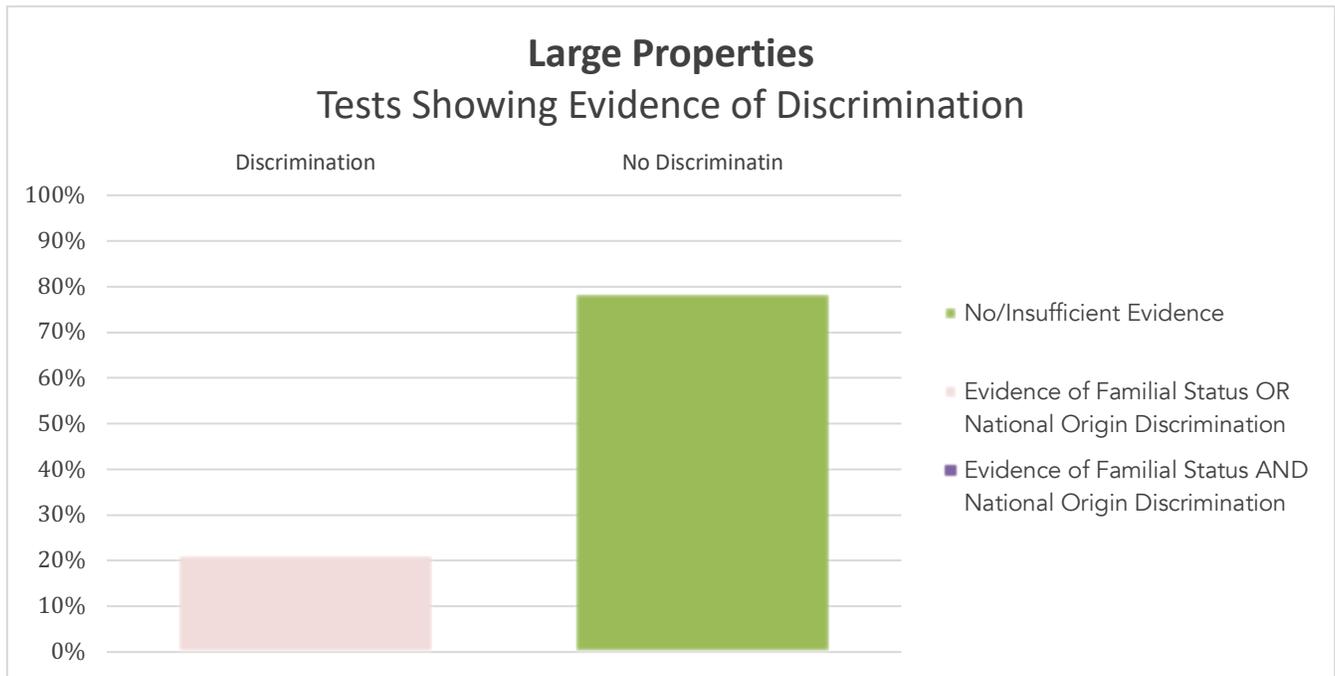


Of the 12 qualifying tests conducted at medium sized properties in the tri-county area, 33.3% revealed evidence of national origin discrimination, with 16.7% showing clear evidence of discrimination and an additional 16.7% showing some or potential evidence of discrimination; 66.7% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests ^{xxv}
Clear Evidence of National Origin Discrimination	2	16.7%
Some/ Potential Evidence of National Origin Discrimination	2	16.7%
Total National Origin Discrimination	4	33.3%
No/Insufficient Evidence of National Origin Discrimination	8	66.7%
Total	12	100.0%

3. Large Properties

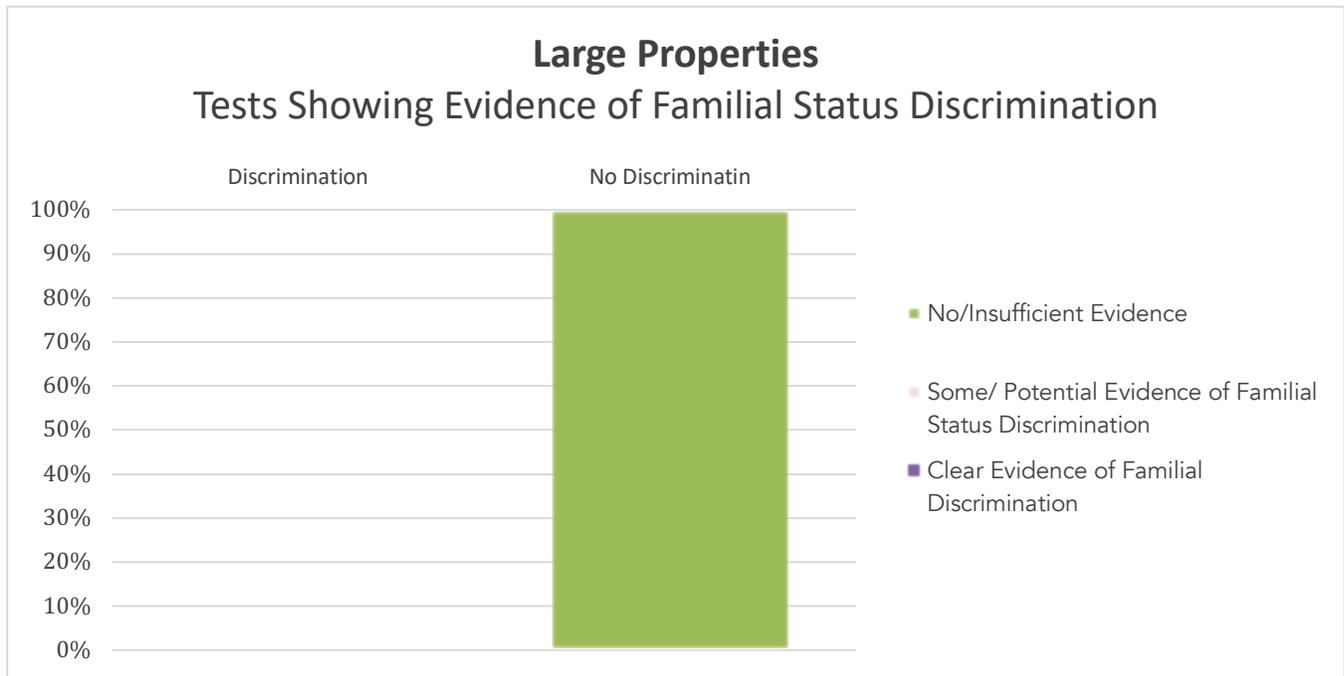
a. Familial Status and/or National Origin Discrimination



Of the 14 qualifying tests conducted at large properties in the tri-county area, 21.4% revealed at least some evidence of discrimination based on familial status and/or national origin, while 78.6% revealed no/insufficient evidence of discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Evidence of Familial Status AND National Origin Discrimination	0	0.0%
Evidence of Familial Status OR National Origin Discrimination	3	21.4%
Evidence of Familial Status and/or National Origin Discrimination	3	21.4%
No/Insufficient Evidence of Discrimination	11	78.6%
Total	14	100.0%

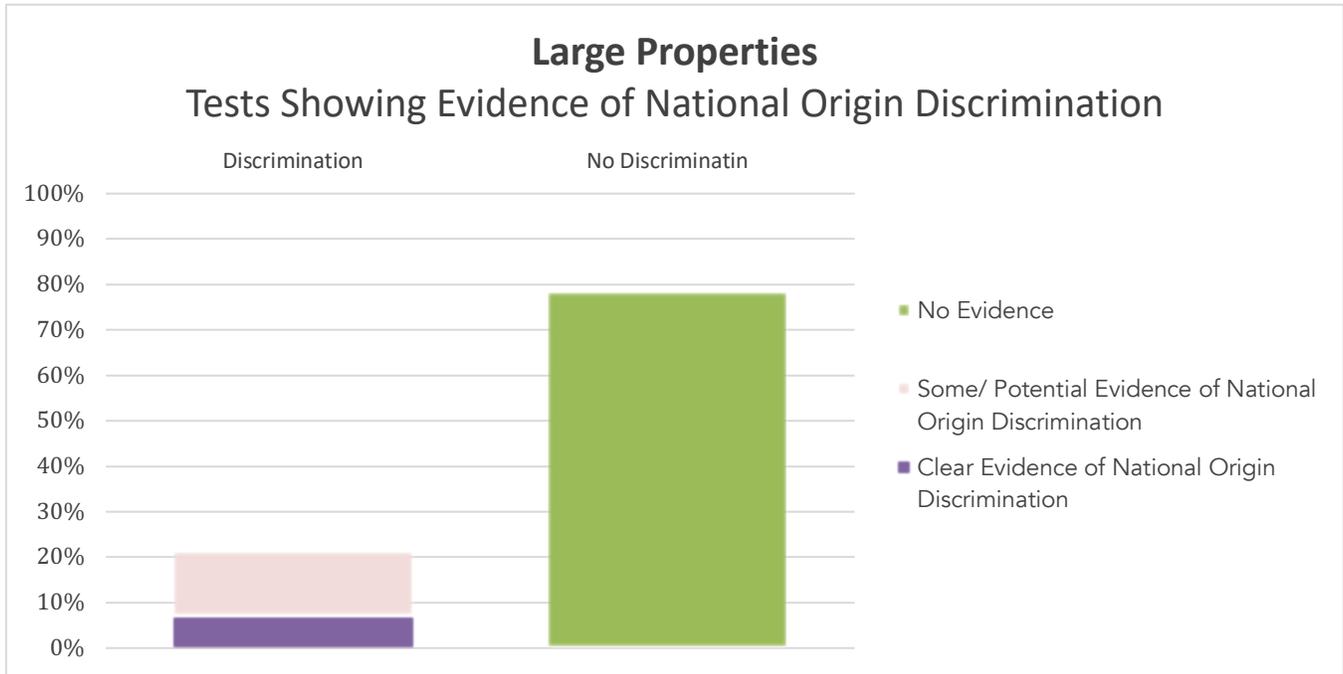
b. Familial Status Discrimination



Of the 16 qualifying tests conducted at large properties in the tri-county area, 0% revealed evidence of familial status discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of Familial Status Discrimination	0	0.0%
Some/ Potential Evidence of Familial Status Discrimination	0	0.0%
Total Familial Status Discrimination	0	0.0%
No/Insufficient Evidence of Familial Status Discrimination	16	100.0%
Total	16	100.0%

c. National Origin Discrimination



Of the 14 qualifying tests conducted at large properties in the tri-county area, 21.4% revealed evidence of national origin discrimination, with 7.1% showing clear evidence of discrimination and an additional 14.3% showing some or potential evidence of discrimination; 78.6% revealed no/insufficient evidence of national origin discrimination.

Evidence of Discrimination	Number of Tests	Percent of Tests
Clear Evidence of National Origin Discrimination	1	7.1%
Some/ Potential Evidence of National Origin Discrimination	2	14.3%
Total National Origin Discrimination	3	21.4%
No/Insufficient Evidence of National Origin Discrimination	11	78.6%
Total	14	100.0%

IV. CONCLUSIONS

Of the qualifying tests conducted in the tri-county area, 58.2% showed at least some evidence of discrimination; with 39.0% revealing evidence of familial status discrimination and 30.4% revealing evidence of national origin discrimination. Of the tests that revealed evidence of familial status discrimination, 27.1% were based on clear evidence.

Housing providers in Marin County were revealed to be the most discriminatory of the three counties tested: 12 of the 18 housing providers tested in Marin discriminated on the basis of familial status and/or national origin, and 4 discriminated on the basis of both. Tests conducted in Marin County also revealed the most evidence of familial status discrimination (52.6%) of all three counties, 70% of which were based on clear evidence. While Marin tests revealed the most discrimination overall, tests conducted in Sonoma County revealed the most evidence of national origin discrimination, 20% of which were based on clear evidence.

Housing providers in Solano County were the least discriminatory based on familial status and national origin: 25% of qualifying tests revealed evidence of familial status discrimination and 23.5% revealed evidence of national origin discrimination.

Phone and email tests uncovered similar rates of discrimination overall (57.7% versus 58.6%) while familial status discrimination was detected at a higher rate in email tests than phone tests (41.4% versus 36.7%) and national origin discrimination was detected at a significantly higher rate in phone tests than email tests (40.7% versus 20.7%). The fact that phone tests produced more evidence of national origin discrimination than email tests is not a surprising result because more information tends to be exchanged over the phone than via email; therefore, there are generally more points of comparison and more opportunities to detect differences. Conversely, the fact that email tests revealed such a high rate of familial status discrimination (i.e., that housing providers are willing to discriminate in writing) suggests both that familial status discrimination is pervasive and that many housing providers are unaware that it is even illegal.

Tests conducted at small and medium sized properties showed the most evidence of discrimination – 72.4% and 66.7% respectively. Comparatively, only 21.4% of tests conducted at large properties showed evidence of discrimination. This disparity was extremely pronounced in tests revealing evidence of familial status discrimination – while 56.7% of tests at small properties and 46.2% of tests at medium sized properties revealed evidence of familial status discrimination, not a single test conducted at a large property revealed evidence of familial status discrimination. National origin discrimination was also less evident at large properties (21.4% versus 33.3% at both small and medium sized properties), indicating that smaller housing providers need additional fair housing training.

In tests that revealed evidence of familial status discrimination, most housing providers either freely discriminated by outright refusing to rent to families with children or had policies that disproportionately affected families such as overly restrictive occupancy rules. In addition, some housing providers discouraged Latina testers with children from renting the unit but made no such discouraging comments or were willing to make exceptions to occupancy rules for white testers with children, revealing evidence of both familial status and national origin discrimination.

V. TAKEAWAYS

With an incredibly tight housing market in the Bay Area, the results of this audit demonstrate that for single Latinx mothers, familial status and national origin discrimination pose additional barriers to housing access.

These findings point to the need for more enforcement actions as well as increased education and outreach to property owners and managers, particularly those of smaller properties and/or those in Marin County where instances of discrimination were the highest. The extremely high rate of discrimination at small properties and medium sized properties points to a clear need for increased education and outreach to “mom and pop” landlords. Conversely, the low rate of discrimination at large properties suggests that larger players in the housing market seem to be aware of their obligations under the law, and, at least at the initial stages of the home seeking process, are complying with their obligations. This is an encouraging finding because larger properties represent almost ten times the number of the units affected (2,753 total units at large properties versus 276 total units at small and medium sized properties).

Additionally, the fact that so many housing providers were willing to state their discriminatory practices and policies in writing, particularly those pertaining to occupancy limits, suggests that at least some are likely unaware of familial status protections under the law, underscoring the substantial need for increased education and outreach, in addition to enforcement efforts.

A. AUDIT LIMITATIONS AND LESSONS

1. Pre-Application Testing Underestimates the Degree of Discrimination

By virtue of its very design and purpose, this audit does not identify the full scope of discriminatory conduct. This audit sought to measure only the degree of discrimination an individual could encounter at the pre-application stage. Because testers did not submit applications, this audit cannot identify housing providers who dispense information and applications without apparent bias but discriminate later in the tenant selection process. This suggests the need to perform follow-up full-application tests in addition to the tests conducted to date, especially in those instances where initial tests suggest differential treatment. Completed application tests could yield evidence of housing providers turning down qualified Latinx applicants because of their national origin or familial status.

Even application tests would not detect the full extent of discrimination against in-place Latinx tenants and tenants with children, as opposed to applicants. Latinx renters report discrimination based on national origin, for instance, in the terms, conditions, privileges or services associated with their housing (e.g., a housing provider’s failure to respond to Latinx tenants’ repair requests, or delayed responses, while white, non-Latinx tenants’ requests are responded to promptly). This audit cannot purport to examine evidence of that kind of discrimination.

VI. RECOMMENDATIONS

- A. **Disseminate audit results** to Marin County, Sonoma County, and Solano County officials, the general public, media, and advocacy groups as an important educational tool. Meet with local governments and partner organizations to inform them of the results of the audit and what steps need to be taken to combat familial status and national origin discrimination. Social media posts and press releases should focus on informing the public about barriers faced by Latinx people and families with children, even in the pre-application stage.
- B. **Monitor sites** where there was an indication of differential treatment or a discriminatory policy and take further action when appropriate.
- C. **Offer fair housing training** seminars to the owners, managers, and agents audited in this report. The audit points out the need for continuous training in fair housing laws for all owners and managers of rental property, with an emphasis on the subtleties of differential treatment and the need to supply uniform information and treatment to all potential applicants, whether in person, over the phone, or by email. FHANC has conducted Fair Housing Law and Practice seminars throughout the North Bay for many years. Such educational endeavors should be supported by public officials and aggressively marketed to housing industry providers through housing associations and elected officials. It is important to ensure that all housing providers and their staff receive fair housing information and training.
- D. **Work with housing providers** to ensure that they are following fair housing laws and that they understand the laws. Send flyers to properties where testing showed evidence of differential treatment and/or discriminatory policies. Ask that rental property owners and real estate offices check to make sure that the required HUD equal opportunity housing provider logo is posted in plain view for applicants.
- E. **Conduct additional audits.** Because discrimination is so often subtle or cloaked as helpful suggestions, it may go undetected. Comparative examinations such as this offer the best approach to bring such practices to light. We recommend that Marin County, Sonoma County, and Solano County consider funding similar projects in the future.
- F. **Spread the word to potential targets.** Work with other agencies serving the Latinx community, as well as families with children, to inform their clients of their fair housing rights and available services.

ENDNOTES

ⁱ See *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

ⁱⁱ <https://cuslar.org/2020/04/07/no-place-to-call-home-latinos-suffer-housing-discrimination-in-u-s/>

ⁱⁱⁱ <https://cuslar.org/2020/04/07/no-place-to-call-home-latinos-suffer-housing-discrimination-in-u-s/>

^{iv} https://www.huduser.gov/portal/Publications/pdf/HUD-514_HDS2012_execsumm.pdf

^v Note: This material is based on work supported by the Department of Housing and Urban Development (HUD) under FHIP Grant FPEI190035. Any opinion, findings, and conclusions or recommendations expressed in this material are those of the authors and do not necessarily reflect the views of HUD.

^{vi} For the purpose of this audit, the term “email test” also includes tests that were conducted via SMS text messaging.

^{vii} No properties were tested in West Marin because there were no available rental listings that fit the selection criteria at the time of the audit.

^{viii} Southern Marin includes the incorporated and/or unincorporated cities/towns of Marin City, Sausalito, Mill Valley, Tiburon, and Belvedere.

^{ix} Central Marin includes the incorporated and/or unincorporated cities/towns of Corte Madera, Larkspur, Kentfield, Ross, San Anselmo, and Fairfax.

^x West Sonoma County includes the incorporated and/or unincorporated cities/towns of Jenner, Guerneville, Monte Rio, Occidental, Sebastopol, Valley Ford, Bodega Bay, Timber Cove, Cazadero, Sea Ranch, Graton, and Forestville.

^{xi} Northern Sonoma County includes the incorporated and/or unincorporated cities/ towns of Cloverdale, Geyserville, Healdsburg, Windsor, Larkfield-Wikiup, and Fulton.

^{xii} Southern Sonoma County includes the incorporated and/or unincorporated cities/towns/areas of Roseland, Penngrove, Eldridge, Sonoma, Kenwood, Cotati, and Rohnert Park.

^{xiii} Northern Solano County includes the incorporated and/or unincorporated cities/towns of Allendale and Dixon.

^{xiv} Southern Solano County includes the incorporated and/or unincorporated cities/towns of Benicia, Suisun City, and Rio Vista.

^{xv} For “Latinx-sounding” names, the investigations coordinators will chose first names from a list of the 200 most popular Mexican names, which can be found at https://www.momjunction.com/articles/mexican-baby-names-for-girls-and-boys_00401444/#gref, and paired them with last names from a list of the most common surnames for “Hispanics,” based on the United States Census, which can be found at <https://names.mongabay.com> and is based on the 2000 U.S. Census. For “white-sounding” names, the investigations coordinator will chose first names from a list of the twenty (20) “Whitest” first names, based on a large data set of birth-certificate information for every child born in California since 1961, which can be found at <https://abcnews.go.com/2020/top-20-whitest-blackest-names/story?id=2470131>, and paired them with last names from a list of the most common surnames for “Whites” based on the United States Census, which can be found at <https://names.mongabay.com> and is based on the 2000 U.S. Census.

^{xvi} For the purpose of this audit, the term “email test” also includes tests that were conducted via SMS text messaging. For those tests, properties were selected that stated in the rental listing that the housing provider was willing to accept text messages.

^{xvii} Names/aliases used to create email profiles were chosen using the same techniques used to create aliases for phone test profiles.

^{xviii} In this scenario, there is no way to compare the housing provider’s response times or responsive behavior toward each tester because one tester left no voicemails and therefore never required a response and there was also no way to compare other forms of treatment or behavior toward each tester because only one tester made contact with the housing provider.

^{xix} “Qualifying tests” refers to tests that were not classified as inconclusive for either familial status or national origin discrimination.

^{xx} Percentages do not always add up because of rounding.

^{xxi} “Qualifying tests” refers to tests that were not classified as inconclusive for familial status discrimination.

^{xxii} “Qualifying tests” refers to tests that were not classified as inconclusive for national origin discrimination.

^{xxiii} Percentages do not always add up because of rounding.

^{xxiv} Percentages do not always add up because of rounding.

^{xxv} Percentages do not always add up because of rounding.